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THE

UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL.

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THE

UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL,

WITH

CHRONOLOGICAL TABLE, INDEX AND NOTES.

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PREFACE.

THIS, the seventh, volume of the General Acts, has been compiled on the same lines as the six preceding volumes, and contains the unrepealed Acts of the Governor General in Council passed since the 1st January, 1899, up to date. An index to the volume is as usual appended.

J. MORISON,

Personal Assistant to the Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 31st December, 1903.

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THE

UNREPEALED GENERAL ACTS

OF

THE GOVERNOR GENERAL IN COUNCIL.

ACT No. I OF 1899.[1]

[*13th January, 1899.*]

An Act to amend the Indian Marine Act, 1887.

XIV of 1887. WHEREAS it is expedient to amend the Indian Marine Act, 1887[2] (hereinafter referred to as "the said Act"); It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Marine Act (1887) Amendment Act, 1899; and

(*2*) It shall come into force at once.

Amendment of section 2, sub-section (*1*), clause (*a*), Act XIV, 1887.

2. In section 2, sub-section (*1*), clause (*a*), of the said Act, for the words 'the Indian Marine Service' the words 'the Royal Indian Marine Service (herein referred to as "the Indian Marine Service" or "Her Majesty's Indian Marine Service")' shall be substituted.

Substitution of new clauses for clauses (*b*), (*c*) and (*d*), section 2, sub-section (*1*), Act XIV, 1887.

3. In the same section and sub-section of the said Act, for clauses (*b*), (*c*) and (*d*) the following clauses shall be substituted, namely:—

(*b*) "gazetted officer" means a person who, by virtue of his letter of appointment, is holding a position in the Indian Marine Service as—

Commander,	Chief Engineer,
Lieutenant,	Engineer, or
Sub-Lieutenant,	Assistant Engineer:

(*c*) "warrant-officer" means a person who, by virtue of his appointment, is holding a position in the Indian Marine Service as—

Assistant Surgeon,	Carpenter,
Gunner,	Clerk, or

Engine-driver, first class:

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 845; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 370, and *ibid*, 1899, Pt. VI, p. 3.

[2] General Acts, Vol. V.

(*d*) "petty officer" means a person who is employed in the Indian Marine Service as—

General Mess Steward,	Carpenter's Crew, first class,
Chief Syrang of Lascars, first class,	Carpenter's Crew, second class,
Chief Syrang of Lascars, second class,	Plumber,
Syrang of Lascars, first class,	General Mess Butler, first class,
Syrang of Lascars, second class,	General Mess Butler, second class,
Sukkani,	Cook, first class,
Tindal of Lascars, first class,	Cook, second class,
Tindal of Lascars, second class,	Ship's Steward,
Engine-driver, second class,	Tide-watcher,
Syrang of Stokers, first class,	Kassab, first class,
Syrang of Stokers, second class,	Kassab, second class,
Tindal of Stokers, first class,	Pilot,
Tindal of Stokers, second class,	Chart-room Attendant,
Carpenter's Mate, first class,	Leadsman, or
Carpenter's Mate, second class,	Interpreter.

Substitution of new sub-sections for sub-sections (*1*), (*2*) and (*3*), section 53, Act XIV, 1887.

4. (*1*) In section 53 of the said Act, for sub-sections (*1*), (*2*) and (*3*) the following sub-sections shall be substituted, namely:—

"53. (*1*) An Indian Marine Court shall consist of a president and not less than two, or more than four, other members, such members to be of rank not inferior to that of Lieutenant.

(*2*) The president of an Indian Marine Court for the trial of a Commander shall be of rank not below that of Commander, and two at least of the other officers composing the Court shall be of rank not below that of Commander.

(*3*) Except in the case of an Indian Marine Court convened under section 52, sub-section (*2*), the president of an Indian Marine Court for the trial of any person below the grade of Commander shall be of rank not below that of Commander."

(*2*) To the said section the following sub-sections shall be added, namely:—

"(*10*) The seniority and precedence of officers serving on the same Indian Marine Court shall be governed by their seniority as shown in the latest Indian Marine List. The fact of any officer bearing a superior title by virtue of an appointment which he may for the time being be holding, shall not give him seniority or precedence over any officer serving with him on the Indian Marine Court who may be senior to him on the Indian Marine List.

(*11*) The authority convening an Indian Marine Court shall, when practicable, appoint a Judge Advocate to every trial, who shall be, if possible, an officer of the Judge Advocate General's Department.

(*12*) The authority convening an Indian Marine Court shall also appoint a person as Provost-Marshal, who shall be responsible for the arrest and safe custody of the prisoner or prisoners as directed, until the decision of the confirming authority is made known and communicated to him by the convening authority."

5. After section 70 of the said Act the following shall be added, namely :—

Addition of new section after section 70, Act XIV, 1887.

"*Supplemental.*

Provision in case of wreck, loss, destruction or capture of Indian Marine vessel.

"70A. When an Indian Marine vessel is wrecked, lost, destroyed or captured by the enemy, it shall, for the purposes of this Act, be deemed to remain an Indian Marine vessel until her crew are regularly removed into some other Indian Marine vessel or until a Court of Inquiry has been held into the cause of the wreck, loss, destruction or capture thereof."

THE INDIAN STAMP ACT, 1899.

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ACT No. II OF 1899.[1]

[*27th January, 1899.*]

An Act to consolidate and amend the law relating to Stamps.

WHEREAS it is expedient to consolidate and amend the law relating to Stamps; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. (*1*) This Act may be called the Indian Stamp Act, 1899.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 175; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 231; and for Proceedings in Council, *see ibid*, 1897, Pt. VI, p. 231; *ibid*, 1898, Pt. VI, pp. 10 and 278; *ibid*, 1899, Pt. VI, p. 5.

The Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, as amended by the Santhal Parganas Justice and Laws Regulation, 1899 (III of 1899), s. 3, *see* the revised edition as modified up to 1st October, 1899.

The Act has been declared to be in force in the sub-division of Angul by notification under s. 5 of the Angul District Regulation, 1894 (I of 1894)—*see* Calcutta Gazette, 1899, Pt. I, p. 1064.

Under s. 2 of the Assam Frontier Tracts Regulation, 1880 (II of 1880) (Assam Code, p. 224), it has been declared that the Act shall cease to be in force in the Garo Hills, the Khasi and Jaintia Hills and the Naga Hills, the North Cachar Sub-division of the Cachar District, the Mikir Hills Tract and the Dibrugarh Frontier Tract, and under ss. 5 and 5A of the Scheduled Districts Act, 1874 (XIV of 1874), the Act was extended to the places abovementioned with the proviso that it shall not apply to persons being natives of these areas who are assessed to house-tax instead of land-revenue—*see* Gazette of India, 1903, Pt. I, p. 175.

(*2*) It extends to the whole of British India, inclusive of Upper Burma,[1] British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and extent and commencement.

(*3*) It shall come into force on the first day of July, 1899.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(*1*) "banker" includes a bank and any person acting as a banker: "Banker."

(*2*) "bill of exchange" means a bill of exchange as defined by the [2]Negotiable Instruments Act, 1881, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money: "Bill of exchange."

XXVI of 1881.

(*3*) "bill of exchange payable on demand" includes— "Bill of exchange payable on demand."

(*a*) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(*b*) an order for the payment of any sum of money weekly, monthly or at any other stated periods; and

(*c*) a letter of credit, that is to say, any instrument by which one person authorizes another to give credit, to the person in whose favour it is drawn:

(*4*) "bill of lading" includes a "through bill of lading," but does not include a mate's receipt: "Bill of lading"

(*5*) "bond" includes— "Bond."

(*a*) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be;

(*b*) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(*c*) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another:

(*6*) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, "Chargeable."

[1] This Act is to be deemed not to extend or to have ever extended to the Hill District of Arakan, —*see* the Arakan Hill District Laws Regulation, 1901 (II of 1901).

[2] General Acts, Vol. III.

and, as applied to any other instrument, chargeable under the law in force in British India when such instrument was executed or where several persons executed the instrument at different times, first executed:

"Cheque."

(7) "cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand:

"Chief Controlling Revenue-authority."

(8) "Chief Controlling Revenue-authority" means—

(a) in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the North-Western Provinces and the Chief Commissioner of Oudh[1]—the Board of Revenue;

(b) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner;

(c) in Sindh—the Commissioner;

(d) in the [2] Punjab and Burma, including Upper Burma—the [2] Financial Commissioner; and

(e) elsewhere—the [2] Local Government or such officer as the Local Government may, by notification[3] in the official Gazette,[2] appoint in this behalf:

"Collector."

(9) "Collector"—

(a) means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras and Bombay, respectively and, without those limits, the Collector of a district; and

(b) includes a Deputy Commissioner and any officer whom the [2] Local Government may, by notification[4] in the [2] official Gazette, appoint in this behalf:

"Conveyance."

(10) "conveyance" includes a conveyance on sale and every instrument by which property, whether moveable or immoveable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I:

"Duly stamped."

(11) "duly stamped," as applied to an instrument, means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in British India:

---

[1] Read now "the Lieutenant-Governor of the United Provinces of Agra and Oudh"—*see* the United Provinces (Designation) Act, 1902 (VII of 1902), *infra*, p. 207.

[2] In the North-West Frontier Province, for "Punjab" read "North-West Frontier Province," for "Financial Commissioner" read "Revenue Commissioner," for "Local Government" read "Chief Commissioner," and for "official Gazette" read "Gazette of India," *see* s. 6 (1) (a), (e), (b) and (g), respectively, of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

[3] For instance of such a notification which was issued by the Chief Commissioner, British Baluchistan, *see* Gazette of India, 1899, Pt. II, p. 920.

[4] For notification by the Chief Commissioner of Ajmer-Merwara, declaring that "Collector" includes Assistant Commissioners of the Province, *see* Gazette of India, 1902, Pt. II, p. 501.

(*12*) "executed" and "execution," used with reference to instruments, mean "signed" and "signature": "Executed," and "execution."

(*13*) "impressed stamp" includes— "Impressed stamp."

(*a*) labels affixed and impressed by the proper officer, and

(*b*) stamps embossed or engraved on stamped paper:

(*14*) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded: "Instrument."

(*15*) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue-authority or any Civil Court and an award by an arbitrator directing a partition: "Instrument of partition."

(*16*) "lease" means a lease of immoveable property, and includes also— "Lease."

(*a*) a pattá;

(*b*) a kabúliyat or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy or pay or deliver rent for immoveable property;

(*c*) any instrument by which tolls of any description are let;

(*d*) any writing on an application for a lease intended to signify that the application is granted:

(*17*) "mortgage-deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to, or in favour of, another, a right over or in respect of specified property: "Mortgage-deed."

(*18*) "paper" includes vellum, parchment or any other material on which an instrument may be written: "Paper."

(*19*) "policy of insurance" includes— "Policy of insurance."

(*a*) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;

(*b*) a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance; and

(*c*) any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the

policy had originally been granted for a longer term than six months:

"Policy of sea-insurance" or "sea-policy."

(*20*) "policy of sea-insurance" or "sea-policy"—

(*a*) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in, or relating to, any ship or vessel; and

(*b*) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (*a*), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance:

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance:

"Power-of-attorney."

(*21*) "power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it:

"Promissory note."

(*22*) "promissory note" means a promissory note as defined by the [1] Negotiable Instruments Act, 1881; XXVI of 1881.

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen:

"Receipt."

(*23*) "receipt" includes any note, memorandum or writing—

(*a*) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or

(*b*) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or

(*c*) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(*d*) which signifies or imports any such acknowledgment,

and whether the same is or is not signed with the name of any person: and

[1] General Acts, Vol. III.

(*24*) "settlement" means any non-testamentary disposition, in writing, of moveable or immoveable property made— "Settlement."

(*a*) in consideration of marriage;

(*b*) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him; or

(*c*) for any religious or charitable purpose:

and includes an agreement in writing to make such a disposition.

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor respectively, that is to say— Instruments chargeable with duty.

(*a*) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in British India on or after the first day of July, 1899;

(*b*) every bill of exchange, cheque or promissory note drawn or made out of British India on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in British India: and

(*c*) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of British India on or after that day, relates to any property situate, or to any matter or thing done or to be done, in British India and is received in British India:

Provided that no duty shall be chargeable in respect of—

(*1*) any instrument executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument;

(*2*) any instrument for the sale, transfer or other disposition, either absolutely or by way of mortgage or otherwise, of any ship or vessel, or any part, interest, share or property of or in any ship or vessel registered under the Merchant Shipping Act, 1894[1]; or

57 & 58 Vict., c. 60.

[1] Vol. II of the Collection of Statutes relating to India, Ed. 1899.

under Act XIX of 1838,[1] or the Indian Registration of Ships Act, 1841,[2] as amended by subsequent Acts. X of 1841.

Several instruments used in single transaction of sale, mortgage or settlement.

4. (*1*) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, for the conveyance, mortgage or settlement, and each of the other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in that schedule.

(*2*) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (*1*), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

Instruments relating to several distinct matters.

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments coming within several descriptions in Schedule I.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

Policies of sea-insurance.

7. (*1*) No contract for sea-insurance (other than such insurance as is referred to in section 506 of the Merchant Shipping Act, 1894),[3] shall be valid unless the same is expressed in a sea-policy. 57 & 58 Vict., c. 60.

(*2*) No sea-policy made for time shall be made for any time exceeding twelve months.

(*3*) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured.

(*4*) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be

[1] Bombay Code, Vol. I.
[2] General Acts, Vol. I.
[3] Vol. II of the Collection of Statutes relating to India, Ed. 1899.

charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

Bonds, debentures or other securities issued on loans under Act XI, 1879.

XI of 1879.

8. (*1*) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of the [1]Local Authorities Loan Act, 1879, or of any other law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of eight annas per centum on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(*2*) The provisions of sub-section (*1*) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not:

Provided that nothing herein contained shall exempt the local authority which has issued such bonds, debentures or other securities from the duty chargeable in respect thereof prior to the twenty-sixth day of March, 1897, when such duty has not already been paid or remitted by order issued by the Governor General in Council.

(*3*) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payable, and a like penalty for every month after the first month during which the neglect continues.

Power to reduce, remit or compound duties.

9. The Governor General in Council may, by rule or order published in the Gazette of India,—

[2](*a*) reduce or remit, whether prospectively or retrospectively, in the

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[1] General Acts, Vol. III.

[2] For the general notification reducing and remitting such duties, *see* Gazette of India, 1899, Pt. I, p. 79.

For notification remitting the duty on apprenticeship-deeds in the case of distributors or compositors bound apprentice to the Superintendent of Government Printing, India, *see* Gazette of India, 1899, Pt. I, p. 1068.

For notification reducing the duties chargeable on certain kabúliyats in the Bankura District, Lower Bengal, *see* Notification No. 644-S. R., Gazette of India, 1900, Pt. I, p. 85; *ibid.* p. 676.

For notification remitting duty chargeable on any instrument of transfer of shares registered in a branch register in the United Kingdom under Act IV of 1900, which has paid stamp-duty leviable thereon in accordance with the law for the time being in force in the United Kingdom, *see* Gazette of India, 1900, Pt. I, p. 100.

For notification remitting the duties on all agreements between creditors and debtors to refer their claims to arbitration made in the Central Provinces in the conciliation proceedings approved by the Local Administration and on awards made on such agreements, *see* Gazette of India, 1900, Pt. I, p. 293.

For notification remitting the duty on agreements or memoranda of agreement for the cultivation of the hemp plant made by cultivators in the Madras Presidency, *see* Notification No. 226-S. R., dated the 11th January, 1901 Gazette of India, 1901, Pt. I, p. 32.

For notification remitting the duty on general or special authorities in writing, authorising agents to appear and plead under section 23 (*2*) of the North-Western Provinces and Oudh Village

whole or any part of British India, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(*b*) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

B.—Of stamps and the mode of using them.

Duties how to be paid.

10. (*1*) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(*a*) according to the provisions herein contained; or,

(*b*) when no such provision is applicable thereto—as the Governor General in Council may by rule direct.

(*2*) The rules[1] made under sub-section (*1*) may, among other matters, regulate,—

(*a*) in the case of each kind of instrument—the description of stamps which may be used;

(*b*) in the case of instruments stamped with impressed stamps—the number of stamps which may be used;

(*c*) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

Use of adhesive stamps.

11. The following instruments may be stamped with adhesive stamps, namely:—

(*a*) instruments chargeable with the duty of one anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets;

Courts Act, 1892 (III of 1892), *see* Notification No. 5650-S. R., dated 8th July, 1901—Gazette of India, 1901, Pt. I, p. 451.

For notification remitting the duty chargeable on certain mortgage-deeds executed for the purpose of giving effect to (*1*) s. 9 (*2*) of the Punjab Alienation of Land Act, 1900 (XIII of 1900), *see* Gazette of India, 1901, Pt. I, p. 1001, and (*2*), the same section of the Bundelkhand Alienation of Land Act, 1903, United Provinces Act II of 1903, *see ibid*, 1903, Pt. I, p. 537.

For notification remitting the duty chargeable on leases of fisheries granted by the Chief Commissioner of Assam, *see* Gazette of India, 1903, Pt. I, p. 983.

For notification exempting Bills of Lading issued by Inland Steamer Companies from the stamp duty to which they are liable under Art. No. 14 of Sch. I of this Act, *see* Gazette of India, 1904, Pt. I, p. 88.

For notification reducing the duty chargeable under clause (*b*) of Art. 41, Sch. I, *see* Gazette of India, 1903, Pt. I, p. 89.

[1] For rules as to the use of impressed adhesive stamps, *see* Notification No. 786 S. R., dated 17th February, 1899—Gazette of India, 1899, Pt. I, p. 82, amended by Notification No. 582-S. R. Gazette of India, 1901, Pt. I, p. 84, and by Notification No. 1662-S. R., dated 21st March, 1902, Gazette of India, 1902, Pt. I, p. 285.

(*b*) bills of exchange, cheques and promissory notes drawn or made out of British India;

(*c*)[1] entry as an advocate, vakil or attorney on the roll of a High Court;

(*d*) notarial acts; and

(*e*) transfers by endorsement of shares in any incorporated company or other body corporate.

Cancellation of adhesive stamps.

12. (*1*) (*a*) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(*b*) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(*2*) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

(*3*) The person required by sub-section (*1*) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

Instruments stamped with impressed stamps how to be written.

13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

14. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written:

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instrument written contrary to section 13 or 14 deemed unstamped.

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

Denoting duty.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in

[1] As to the enrolment of legal practitioners in the North-West Frontier Province, *see* s. 9 of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

respect of another instrument, the payment of such last-mentioned duty shall if application is made in writing to the Collector for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument by endorsement under the hand of the Collector or in such other manner (if any) as the Governor General in Council may by rule prescribe.

C.—Of the time of stamping Instruments.

Instruments executed in British India.

17. All instruments chargeable with duty and executed by any person in British India shall be stamped before or at the time of execution.

Instruments other than bills, cheques and notes executed out of British India.

18. (*1*) Every instrument chargeable with duty executed only out of British India, and not being a bill of exchange, cheque or promissory note, may be stamped within three months after it has been first received in British India.

(*2*) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Collector, who shall stamp the same, in such manner as the Governor General in Council may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills, cheques and notes drawn out of British India.

19. The first holder in British India of any bill of exchange, cheque or promissory note drawn or made out of British India shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in British India, affix thereto the proper stamp and cancel the same :

Provided that,—

(*a*) if, at the time any such bill of exchange, cheque or note comes into the hands of any holder thereof in British India, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled :

(*b*) nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Duty.

Conversion

20. (*1*) Where an instrument is chargeable with *ad valorem* duty in

respect of any money expressed in any currency other than that of British India, such duty shall be calculated on the value of such money in the currency of British India according to the current rate of exchange on the day of the date of the instrument.

of amount expressed in foreign currencies.

(*2*) The Governor General in Council may, from time to time, by notification in the Gazette of India, prescribe[1] a rate of exchange for the conversion of British or any foreign currency into the currency of British India for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (*1*).

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

Stock and marketable securities how to be valued.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Effect of statement of rate of exchange or average price.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Instruments reserving interest.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty:

How transfer in consideration of debt, or subject to future payment, etc., to be charged.

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 18 of Schedule I.

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage-money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the

[1] For notification prescribing such rates, *see* No. 1281-S.R., dated the 17th March, 1899—Gazette of India, 1899, Pt. I, p. 153.

mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

(*1*) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.

(*2*) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.

(*3*) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

Valuation in case of annuity, etc.

25. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

(*a*) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(*b*) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due: and

(*c*) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

Stamp where value of subject-matter is indeterminate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

Provided that, in the case of the lease of a mine in which a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such share, for the purpose of stamp-duty, at twenty thousand

rupees a year, and the whole amount of such share, whatever it may be, shall be claimable under such lease :

Provided also that, where proceedings have been taken in respect of an instrument under section 31 or 41, the amount certified by the Collector shall be deemed to be the stamp actually used at the date of execution.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (*1*) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(*2*) Where property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(*3*) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(*4*) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers ;

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Duties by whom payable.

29. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

(*a*) in the case of any instrument described in any of the following Articles of Schedule I, namely :—

No. 2 (Administration Bond),
No. 6 (Agreement to mortgage),
No. 13 (Bill of Exchange),
No. 15 (Bond),
No. 16 (Bottomry Bond),
No. 26 (Customs Bond),
No. 27 (Debenture),
No. 32 (Further Charge),
No. 34 (Indemnity-Bond),
No. 40 (Mortgage-Deed),
No. 49 (Promissory-Note),
No. 55 (Release),
No. 56 (Respondentia Bond),
No. 57 (Security Bond or Mortgage-Deed),
No. 58 (Settlement),
No. 62 (*a*) (Transfer of shares in an incorporated company or other body corporate),
No. 62 (*b*) (Transfer of Debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),
No. 62 (*c*) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making or executing such instrument :

(*b*) in the case of a policy of insurance—by the person effecting the insurance:

(*c*) in the case of a conveyance (including a reconveyance of mortgaged property) by the grantee: in the case of a lease or agreement to lease—by the lessee or intended lessee:

(*d*) in the case of a counterpart of a lease—by the lessor:

(*e*) in the case of an instrument of exchange—by the parties in equal shares:

(*f*) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates: and,

(*g*) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue-authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

Obligation to give receipt in certain cases.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

CHAPTER III.

ADJUDICATION AS TO STAMPS.

Adjudication as to proper stamp.

31. (*1*) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Collector, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Collector may in each case direct, the Collector shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(*2*) For this purpose the Collector may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may

refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly:

Provided that—

(*a*) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable; and

(*b*) every person by whom any such evidence is furnished, shall, on payment of the full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Collector.

32. (*1*) When an instrument brought to the Collector under section 31 is, in his opinion, one of a description chargeable with duty, and—

(*a*) the Collector determines that it is already fully stamped, or

(*b*) the duty determined by the Collector under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Collector shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(*2*) When such instrument is, in his opinion, not chargeable with duty, the Collector shall certify in manner aforesaid that such instrument is not so chargeable.

(*3*) Any instrument upon which an endorsement has been made under this section, shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and if chargeable with duty shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped:

Provided that nothing in this section shall authorize the Collector to endorse—

(*a*) any instrument executed or first executed in British India and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be;

(*b*) any instrument executed or first executed out of British India and brought to him after the expiration of three months after it has been first received in British India; or

(*c*) any instrument chargeable with the duty of one anna, or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instruments.

33. (*1*) Every person having by law or consent of parties authority to receive evidence and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable, in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(*2*) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in British India when such instrument was executed or first executed:

Provided that—

(*a*) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the [1]Code of Criminal Procedure, 1898;

V of 1898.

(*b*) in the case of a Judge of a High Court, the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(*3*) For the purposes of this section, in cases of doubt,—

(*a*) the Governor General in Council may determine what offices shall be deemed to be public offices; and

(*b*) the Local Government may determine who shall be deemed to be persons in charge of public offices.

Special provision as to unstamped receipts.

34. Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Instruments not duly stamped inadmissible in evidence, etc.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

[1] *See* the revised edition of the Act as modified up to 1st April, 1903.

Provided that—

(a) any such instrument not being an instrument chargeable with a duty of one anna only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

(b) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it;

(c) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped;

(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898[1]; V of 1898.

(e) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Collector as provided by section 32 or any other provision of this Act.

Admission of instrument where not to be questioned.

36. Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of improperly stamped instruments.

37. The Governor General in Council may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Instruments impounded

38. (1) When the person impounding an instrument under section 33

[1] See the revised edition of the Act as modified up to 1st April, 1903

has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Collector an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Collector, or to such person as he may appoint in this behalf.

how dealt with.

(*2*) In every other case, the person so impounding an instrument shall send it in original to the Collector.

39. (*1*) When a copy of an instrument is sent to the Collector under section 38, sub-section (*1*), he may, if he thinks fit, upon application made to him in this behalf or, if no application is made, with the consent of the [1] Chief Controlling Revenue-authority, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

Collector's power to refund penalty paid under section 38, sub-section (*1*).

(*2*) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may refund the whole penalty so paid.

40. (*1*) When the Collector impounds any instrument under section 38, or receives any instrument sent to him under section 38, sub-section (*2*), not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, he shall adopt the following procedure :—

Collector's power to stamp instruments impounded.

(*a*) if he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be:

(*b*) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit, ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this section.

(*2*) Every certificate under clause (*a*) of sub-section (*1*) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner," *see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

(*3*) Where an instrument has been sent to the Collector under section 38, sub-section (*2*), the Collector shall, when he has dealt with it as provided by this section, return it to the impounding officer.

Instruments unduly stamped by accident.

41. If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution, and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 38 and 40, receive such amount and proceed as next hereinafter prescribed.

Endorsement of instruments on which duty has been paid under sections 35, 40 or 41.

42. (*1*) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Collector, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them.

(*2*) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct:

Provided that—

(*a*) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Collector has certified that its further detention is necessary and has not cancelled such certificate:

(*b*) nothing in this section shall affect the Code of Civil Procedure,[1] section 144, clause 3. XIV of 1882

Prosecution for offence against Stamp-law.

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any

[1] *See* the revised edition as modified up to the 1st December, 1899, published by the Legislative Department.

person who appears to have committed an offence against the Stamp-law in respect of such instrument:

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Collector that the offence was committed with an intention of evading payment of the proper duty.

Persons paying duty or penalty may recover same in certain cases.

44. (*1*) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and, by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(*2*) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(*3*) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

Power to Revenue-authority to refund penalty or excess duty in certain cases.

45. (*1*) Where any penalty is paid under section 35 or section 40, the [1] Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(*2*) Where, in the opinion of the [1] Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

Non-liability for loss of instruments sent under section 38.

46. (*1*) If any instrument sent to the Collector under section 38, sub-section (*2*), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(*2*) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may

[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner," *see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

Power of payer to stamp bills, promissory notes and cheques received by him unstamped.

47. When any bill of exchange, promissory note or cheque chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note or cheque shall, so far as respects the duty, be deemed good and valid:

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, note or cheque.

Recovery of duties and penalties.

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Collector by distress and sale of the moveable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

CHAPTER V.

ALLOWANCES FOR STAMPS IN CERTAIN CASES.

Allowance for spoiled stamps.

49. Subject to such rules as may be made by the Governor General in Council as to the evidence to be required, or the enquiry to be made, the Collector may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely:—

(*a*) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person:

(*b*) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto:

(*c*) in the case of bills of exchange, cheques or promissory notes—

(*1*) the stamp on any bill of exchange or cheque signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance: provided that the paper on which any such stamp is impressed,

does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon:

(2) the stamp on any promissory note signed by or in behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands:

(3) the stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee: provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid with the spoiled bill, cheque or note:

(*d*) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning:

(2) has been afterwards found unfit by reason of any error or mistake therein, for the purpose originally intended:

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed:

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended:

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose:

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value:

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value:

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped:

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Collector under section 32 that the full duty with which an instrument is chargeable has been paid is an impressed stamp within the meaning of this section.

Application for relief under section 49 when to be made.

50. The application for relief under section 49 shall be made within the following periods, that is to say,—

(1) in the cases mentioned in clause (*d*) (5), within two months of the date of the instrument:

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled:

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed:

Provided that,—

(*a*) when the spoiled instrument has been for sufficient reasons sent out of British India, the application may be made within six months after it has been received back in British India:

(*b*) when, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

Allowance in case of printed forms no longer required by Corporations.

51. The [1] Chief Controlling Revenue-authority may, without limit of time, make allowance for stamped papers used for printed forms of instruments by any incorporated company or other body corporate, if for any

[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner," *see* s. 6 (1) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

sufficient reason such forms have ceased to be required by the said company or body corporate, provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance for misused stamps.

52. (*a*) When any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(*b*) When any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13;

the Collector may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

Allowance for spoiled or misused stamps how to be made.

53. In any case in which allowance is made for spoiled or misused stamps, the Collector may give in lieu thereof—

(*a*) other stamps of the same description and value; or,

(*b*) if required and he thinks fit, stamps of any other description to the same amount in value; or,

(*c*) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

Allowance for stamps not required for use.

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—

(*a*) that such stamp or stamps were purchased by such person with a *bonâ fide* intention to use them; and

(*b*) that he has paid the full price thereof; and

(*c*) that they were so purchased within the period of six months next preceding the date on which they were so delivered:

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction, as aforesaid.

Allowance on renewal of

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within

certain debentures.

one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture, whichever shall be less:

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the Governor General in Council may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:—

(*a*) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;

(*b*) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;

(*c*) the substitution of the name of the holder at the time of renewal for the name of the original holder; and

(*d*) the alteration of the rate of interest or the dates of payment thereof.

CHAPTER VI.

Reference and Revision.

Control of, and statement of case to, Chief Controlling Revenue-authority.

56. (*1*) The powers exerciseable by a Collector under Chapter IV and Chapter V shall in all cases be subject to the control of the [1] Chief Controlling Revenue-authority.

(*2*) If any Collector, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case, and refer it, with his own opinion thereon, for the decision of the [1] Chief Controlling Revenue-authority.

(*3*) Such authority shall consider the case and send a copy of its decision to the Collector, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Statement of case by Chief Controlling Revenue-authority to High Court or Chief Court.

57. (*1*) The [1] Chief Controlling Revenue-authority may state any case referred to it under section 56, sub-section (*2*), or otherwise coming to its notice, and refer such case, with its own opinion thereon,—

(*a*) if the case arises in the territories for the time being administered by the Governor of Fort St. George in Council or the Governor

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[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner," *see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

of Bombay in Council—to the High Court of Judicature at Madras or Bombay, as the case may be;

(*b*) if it arises in the [1]North-Western Provinces or Oudh or in Ajmer—to the High Court of Judicature for the North-Western Provinces;

(*c*) if it arises in the territories for the time being administered by the Lieutenant-Governor of the Punjab or in British Baluchistan—to the Chief Court of the Punjab [2];

(*d*) if it arises in the Central Provinces—to the High Court of Judicature at Bombay;

[3][if it arises in Burma—to the Chief Court of Lower Burma] ;

(*e*) if it arises in any other part of British India[3]—to the High Court of Judicature at Fort William.

(*2*) Every such case shall be decided by not less than three Judges of the High Court or Chief Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

Power of High Court or Chief Court to call for further particulars as to case stated.

58. If the High Court or Chief Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Procedure in disposing of case stated.

59. (*1*) The High Court or Chief Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(*2*) The Court shall send to the Revenue-authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

Statement of case by other Courts to High Court or Chief Court.

60. (*1*) If any Court, other than a Court mentioned in section 57, feels doubt as to the amount of duty to be paid in respect of any instrument under proviso (*a*) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court or Chief Court to which, if he were the Chief Controlling Revenue-authority, he would, under section 57, refer the same.

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[1] For "North-Western Provinces or Oudh" read "the United Provinces of Agra and Oudh"—*see* the United Provinces (Designation) Act, 1902 (VII of 1902), *infra*, p. 207.

[2] As regards proceedings under sections 57 to 60 of this Act, in the North-West Frontier Province, the Chief Court of the Punjab is the High Court, *see* s. 6 (*1*) (*c*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

[3] This clause was inserted by the Lower Burma Courts Act, 1900 (VI of 1900), s. 47 and Sch. I.

(*2*) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the [1]Chief Controlling Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(*3*) References made under sub-section (*1*), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

61. (*1*) When any Court in the exercise of its civil or revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, 1898,[2] makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Collector, take such order into consideration. V of 1898

(*2*) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(*3*) When any declaration has been recorded under sub-section (*2*), the Court recording the same shall send a copy thereof to the Collector, and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(*4*) The Collector may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Collector considers him to have committed in respect of such instrument:

Provided that—

(*a*) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of

[1] In the North-West Frontier Province, the Chief Controlling Revenue-authority is the Revenue Commissioner, *see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

[2] *See* the revised edition of the Act as modified up to 1st April, 1903.

such Court, was payable in respect of the instrument under section 35, is paid to the Collector, unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(*b*) except for the purposes of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

CHAPTER VII.

Criminal Offences and Procedure.

62. (*1*) Any person—

Penalty for executing, etc., instrument not duly stamped.

(*a*) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating, any bill of exchange, cheque or promissory note without the same being duly stamped; or

(*b*) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped; or

(*c*) voting or attempting to vote under any proxy not duly stamped;

shall for every such offence be punishable with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(*2*) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to cancel adhesive stamp.

63. Any person required by section 12 to cancel an adhesive stamp and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

Penalty for omission to comply with

64. Any person who, with intent to defraud the Government,—

(*a*) executes any instrument in which all the facts and circumstances

required by section 27 to be set forth in such instrument are not fully and truly set forth; or,

provisions of section 27.

(*b*) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(*c*) does any other act calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with fine which may extend to five thousand rupees.

Penalty for refusal to give receipt and for devices to evade duty on receipts.

65. Any person who,—

(*a*) being required under section 30 to give a receipt, refuses or neglects to give the same; or,

(*b*) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered;

shall be punishable with fine which may extend to one hundred rupees.

Penalty for not making out policy or making one not duly stamped.

66. Any person who—

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(*b*) makes, executes or delivers out any policy which is not duly stamped or pays or allows in account, or agrees to pay or allow in account any money upon, or in respect of, any such policy;

shall be punishable with fine which may extend to two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

67. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

Penalty for post-dating bills, and for other devices to defraud the revenue.

68. Any person who,—

(*a*) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or,

(*b*) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or

receives payment of such bill or note, or in any manner negotiates the same; or,

(*c*) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force;

shall be punishable with fine which may extend to one thousand rupees.

69. (*a*) Any person appointed to sell stamps who disobeys any rule made under section 74, and

(*b*) Any person not so appointed who sells or offers for sale any stamp (other than a one-anna adhesive stamp);

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Penalty for breach of rule relating to sale of stamps and for unauthorized sale.

70. (*1*) No prosecution in respect of any offence punishable under this Act or any Act hereby repealed, shall be instituted without the sanction of the Collector or such other officer as the Local Government generally, or the Collector specially, authorizes in that behalf.

Institution and conduct of prosecutions.

(*2*) The [1]Chief Controlling Revenue-authority, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.

(*3*) The amount of any such composition shall be recoverable in the manner provided by section 48.

71. No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Jurisdiction of Magistrates.

72. Every such offence committed in respect of any instrument may be tried in any district or presidency-town in which such instrument is found as well as in any district or presidency-town in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

Place of trial.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

73. Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend

Books, etc., to be open to inspection.

[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority" read "Revenue Commissioner", *see* s. 6 (*1*) (*d*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Collector to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

Powers to make rules relating to sale of stamps.

74. The Local Government, subject to the control of the Governor General in Council, may make rules[1], for regulating—

(*a*) the supply and sale of stamps and stamped papers,

(*b*) the persons by whom alone such sale is to be conducted, and

(*c*) the duties and remuneration of such persons:

Provided that such rules shall not restrict the sale of one anna adhesive stamps.

Power to make rules generally to carry out Act.

75. The Governor General in Council may make rules[2] to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Publication of rules.

76. (*1*) All rules made under this Act, other than rules made under section 74, shall be published in the Gazette of India, and all rules made under section 74 shall be published in the local Gazette.

(*2*) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

Saving as to court-fees.

77. Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to court-fees.

Act to be translated, and sold cheaply.

78. Every Local Government shall make provision for the sale of translations of this Act in the principal vernacular languages of the territories administered by it at a price not exceeding four annas per copy.

Repeal.

79. The Acts mentioned in Schedule II are repealed to the extent specified in the fourth column thereof.

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[1] For such rules by the (1) Government of Bengal, *see* Notification No. 6442-S.R., dated the 2nd December, 1899, Calcutta Gazette, 1899, Pt. I, p. 1498; *ibid*, 1900, Pt. I, p. 897, *ibid*, 1902, Pt. I, p. 1107, and *ibid*, 1903, Pt. I, p. 1380; (2) Government of the Punjab, *see* Punjab Gazette, 1900, Pt. I, p. 415; (3) United Provinces of Agra and Oudh, *see* North-Western Provinces and Oudh Gazette, 1897, Pt. I, p. 178; *ibid*, 1901, Pt. I, p. 601; *ibid*, 1902, Pt. I, p. 36; (4) North-West Frontier Province, *see* Gazette of India, 1902, Pt. II, p. 98; (5) Central Provinces, *see* Central Provinces Gazette, 1902, Pt. III, p. 65, and *ibid*, 1903, Pt. III, p. 49; (6) Burma, *see* Burma Gazette, 1902, Pt. I, p. 82; (7) Ajmer-Merwara, *see* Gazette of India, 1903, Pt. II, p. 1059; (8) Coorg *see* Coorg Gazette, 1886, Pt. I, p. 525; *ibid*, 1903, Pt. I, p. 66.

[2] For instance of rules made under this section in conjunction with s. 10, *see* Gazette of India, 1899, Pt. I, p. 82.

For rules as to payment of allowances in respect of spoiled or misused stamps, or on the renewal of debentures, *see* Gazette of India, 1903, Pt. I, p. 137.

SCHEDULE I.

STAMP-DUTY ON INSTRUMENTS.

(*See section 3.*)

Description of Instrument.	Proper Stamp-duty.
1. **ACKNOWLEDGMENT** of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.	One anna.
2. **ADMINISTRATION-BOND,** including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 78 of the Probate and Administration Act, 1881, or section 9 or section 10 of the Succession Certificate Act, 1889,—	X of 1865. V of 1873. V of 1881. VI of 1889.
(*a*) where the amount does not exceed Rs. 1,000	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.
3. **ADOPTION-DEED,** that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt.	Ten rupees.
ADVOCATE. *See* ENTRY AS AN ADVOCATE (No. 30).	
4. **AFFIDAVIT,** including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	One rupee.
Exemptions.	
Affidavit or declaration in writing when made—	
(*a*) as a condition of enlistment under the Indian Articles of War;	V of 1869.
(*b*) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(*c*) for the sole purpose of enabling any person to receive any pension or charitable allowance.	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
5. AGREEMENT OR MEMORANDUM OF AN AGREEMENT—	
(*a*) if relating to the sale of a Government security, or share in an incorporated company or other body corporate, or a bill of exchange.	One anna.
(*b*) if not otherwise provided for	Eight annas.
Exemptions.[1]	
Agreement or memorandum of agreement—	
(*a*) for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 43 ;	
(*b*) made in the form of tenders to the Government of India for or relating to any loan ;	
IX of 1874. (*c*) made under the European Vagrancy Act, 1874, section 17.	
AGREEMENT TO LEASE. *See* LEASE (No. 35).	
6. AGREEMENT by way of EQUITABLE MORTGAGE, that is to say, any instrument evidencing an agreement to secure the repayment of a loan made upon the deposit of title-deeds or other valuable security, or upon the hypothecation of moveable property—	
(*a*) when such loan is repayable more than three months, but not more than one year, from the date of such instrument ;	The same duty as a Bill of Exchange [No. 13 (*b*)] for the amount secured.
(*b*) when such loan is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 13 (*b*)] for the amount secured.
Exemption.	
See Exemptions under MORTGAGE-DEED (No. 40).	
7. APPOINTMENT IN EXECUTION OF A POWER, whether of trustees or of property, moveable or immoveable, where made by any writing not being a Will.	Fifteen rupees.

[1] For notification remitting the duty on such instruments for the cultivation of the hemp plant made by cultivators in the Madras Presidency, *see* Gazette of India, 1901, Pt. I, p. 33.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
8. APPRAISEMENT OR VALUATION made otherwise than under an order of the Court in the course of a suit—	
(*a*) where the amount does not exceed Rs. 1,000 .	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case.	Five rupees.
Exemptions.	
(*a*) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.	
(*b*) Appraisement of crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. APPRENTICESHIP-DEED, including every writing relating to the service or tuition of any apprentice,[1] clerk or servant, placed with any master to learn any profession, trade or employment, not being ARTICLES OF CLERKSHIP (No. 11).	Five rupees.
Exemption.	
Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.	XIX of 1850.
10. ARTICLES OF ASSOCIATION OF A COMPANY.	Twenty-five rupees.
Exemption.	
Articles of any Association not formed for profit and registered under section 26 of the Indian Companies Act, 1882.	VI of 1882.
See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).	
11. ARTICLES OF CLERKSHIP or contract whereby any person first becomes bound to serve as a clerk in order to his admission as an attorney in any High Court.	Two hundred and fifty rupees.

[1] For notification remitting the duty on apprenticeship-deeds in the case of distributors or compositors apprenticed to the Superintendent of Government Printing, India, *see* Gazette of India, 1899, Pt. I, p. 1068.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
ASSIGNMENT. *See* CONVEYANCE (No. 23), TRANSFER (No. 62), and TRANSFER OF LEASE (No. 63), as the case may be.	
ATTORNEY. *See* ENTRY AS AN ATTORNEY (No. 30) and POWER-OF-ATTORNEY (No. 48).	
AUTHORITY TO ADOPT. *See* ADOPTION-DEED (No. 3).	
12. AWARD, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(*a*) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.
Exemption.	
Bom. Act VI of 1873. Bom. Act III of 1874. Award under the Bombay District Municipal Act, 1873, section 81, or the Bombay Hereditary Offices Act, 1874, section 18.	
13. BILL OF EXCHANGE [as defined by s. 2 (*2*) and (*3*)], not being a BOND, bank-note or currency note—	
(*a*) where payable on demand	One anna.

(*b*) where payable otherwise than on demand, but not more than one year after date or sight,—	If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
Rs.	*Rs. a. p.*	*Rs. a. p.*	*Rs. a. p.*
if the amount of the bill or note does not exceed 200	0 2 0	0 1 0	0 1 0
if it exceeds Rs. 200 and does not exceed . 400	0 4 0	0 2 0	0 2 0
Ditto 400 ditto . 600	0 6 0	0 3 0	0 2 0

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.		
	If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
13. BILL OF EXCHANGE—*contd.*	*Rs. a. p.*	*Rs. a. p.*	*Rs. a. p.*
(*b*) where payable otherwise than on demand, but not more than one year after date or sight—*continued.*			
If it exceeds Rs. 600 and does not exceed Rs. 1,000	0 10 0	0 5 0	0 4 0
Ditto 1,000 ditto . 1,200	0 12 0	0 6 0	0 4 0
Ditto 1,200 ditto . 1,600	1 0 0	0 8 0	0 6 0
Ditto 1,600 ditto . 2,500	1 8 0	0 12 0	0 8 0
Ditto 2,500 ditto . 5,000	3 0 0	1 8 0	1 0 0
Ditto 5,000 ditto . 7,500	4 8 0	2 4 0	1 8 0
Ditto 7,500 ditto . 10,000	6 0 0	3 0 0	2 0 0
Ditto 10,000 ditto . 15,000	9 0 0	4 8 0	3 0 0
Ditto 15,000 ditto . 20,000	12 0 0	6 0 0	4 0 0
Ditto 20,000 ditto . 25,000	15 0 0	7 8 0	5 0 0
Ditto 25,000 ditto . 30,000	18 0 0	9 0 0	6 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000 . . .	6 0 0	3 0 0	2 0 0
(*c*) where payable at more than one year after date or sight.	The same duty as a BOND (No. 15) for the same amount.		

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
14. BILL OF LADING (including a through bill of lading).	Four annas. *N.B.*—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
Exemptions.	
(*a*) Bill of lading when the goods therein described are received at a place within the limits of any port as defined under the Indian Ports Act, 1889, and are to be delivered at another place within the limits of the same port.	
(*b*) Bill of lading when executed out of British India and relating to property to be delivered in British India.	
15. BOND [as defined by section 2 (*b*)] not being a DEBENTURE (No. 27) and not being otherwise provided for by this Act, or by the Court-fees Act, 1870,—	
where the amount or value secured does not exceed Rs. 10;	Two annas.
where it exceeds Rs. 10 and does not exceed Rs. 50	Four annas.
Ditto 50 ditto . 100	Eight annas.
Ditto 100 ditto . 200	One rupee.
Ditto 200 ditto . 300	One rupee eight annas.
Ditto 300 ditto . 400	Two rupees.
Ditto 400 ditto . 500	Two rupees eight annas.
Ditto 500 ditto . 600	Three rupees.
Ditto 600 ditto . 700	Three rupees eight annas.
Ditto 700 ditto . 800	Four rupees.
Ditto 800 ditto . 900	Four rupees eight annas.
Ditto 900 ditto . 1,000	Five rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Two rupees eight annas.

X of 1889.

XI of 1870.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
15. BOND—*contd.*	
See ADMINISTRATION-BOND (No. 2), BOTTOMRY BOND (No. 16), CUSTOMS BOND (No. 26), INDEMNITY-BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).	
Exemptions.	
Bond, when executed by—	
(*a*) headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	Ben. Act III of 1876.
(*b*) any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.	
16. BOTTOMRY BOND, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 15) for the same amount.
17. CANCELLATION—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	Five rupees.
See also RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).	
18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue-officer—	
(*a*) where the purchase-money does not exceed Rs. 10;	Two annas.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
18. CERTIFICATE OF SALE—*contd.*	
(*b*) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25;	Four annas.
(*c*) in any other case	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
19. CERTIFICATE OR OTHER DOCUMENT evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. *See also* LETTER OF ALLOTMENT OF SHARES (No. 36).	One anna.
20. CHARTER-PARTY, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer, whether it includes a penalty clause or not.	One rupee.
21. CHEQUE [as defined by section 2 (*7*)] . .	One anna.
22. COMPOSITION DEED, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.	Ten rupees.
23. CONVEYANCE [as defined by section 2 (*10*)], not being a TRANSFER charged or exempted under No. 62,—	
where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50;	Eight annas.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
23. CONVEYANCE—*contd.*	
where it exceeds Rs. 50 but does not exceed Rs. 100	One rupee.
Ditto 100 ditto 200	Two rupees.
Ditto 200 ditto 300	Three rupees.
Ditto 300 ditto 400	Four rupees.
Ditto 400 ditto 500	Five rupees.
Ditto 500 ditto 600	Six rupees.
Ditto 600 ditto 700	Seven rupees.
Ditto 700 ditto 800	Eight rupees.
Ditto 800 ditto 900	Nine rupees.
Ditto 900 ditto 1,000	Ten rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees.
Exemption.	
Assignment of copyright by entry made under the Indian Copyright Act, 1847, section 5.	XX of 1847.
CO-PARTNERSHIP-DEED. *See* PARTNERSHIP (No. 46).	
24. COPY OR EXTRACT certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(*i*) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee;	Eight annas.
(*ii*) in any other case	One rupee.
Exemptions.	
(*a*) Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
24. COPY OR EXTRACT—*contd.*	
Exemptions—contd.	
(*b*) Copies of entries—	
(*i*) in the certified copies of registers, granted under the Births, Deaths and Marriages Registration Act, 1886, section 8;	
VI of 1886.	
(*ii*) in register books, granted by any Registrar of Births and Deaths under the said Act, section 25, or	
(*iii*) in registers and records, granted under the said Act, section 35, when applied for by a soldier, sailor, non-commissioned officer or petty officer;	
(*c*) copies of, or extracts from, baptismal, marriage or burial registers certified by Government Chaplains, subsidised or unsubsidised Clergymen, and Diocesan or Marriage Registrars, and granted to soldiers, sailors or non-commissioned or petty officers.	
25. COUNTERPART OR DUPLICATE of any instrument chargeable with duty and in respect of which the proper duty has been paid,—	
(*a*) if the duty with which the original instrument is chargeable does not exceed one rupee;	The same duty as is payable on the original.
(*b*) in any other case	One rupee.
Exemption.	
Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	
26. CUSTOMS-BOND—	
(*a*) where the amount does not exceed Rs. 1,000 .	The same duty as a Bond (No. 15) for such amount.
(*b*) in any other case	Five rupees.
27. DEBENTURE (whether a mortgage debenture or not), being a marketable security transferable by delivery, or by endorsement or by a separate instrument of transfer.	The same duty as a Bond (No. 15) for the same amount.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
27. DEBENTURE—*contd.*	
Explanation.—The term Debenture includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	
Exemption.	
A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders: provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.	
See also BOND (No. 15) and SECTIONS 8 and 55.	
DECLARATION OF ANY TRUST. *See* TRUST (No. 64).	
28. DELIVERY-ORDER IN RESPECT OF GOODS, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any warehouse in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	One anna.
DEPOSIT OF TITLE-DEEDS. *See* AGREEMENT by way of EQUITABLE MORTGAGE (No. 6).	
DISSOLUTION OF PARTNERSHIP. *See* PARTNERSHIP (No. 46).	
29. DIVORCE—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	One rupee.
DOWER—Instrument of. *See* SETTLEMENT (No. 58).	
DUPLICATE. *See* COUNTERPART (No. 25).	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
30. ENTRY AS AN ADVOCATE, VAKIL OR ATTORNEY ON THE ROLL OF ANY HIGH COURT in exercise of powers conferred on such Court by Letters Patent or by the Legal Practitioners Act, 1884—	IX of 1884.
(*a*) in the case of an Advocate or Vakil . .	Five hundred rupees.
(*b*) in the case of an Attorney . . .	Two hundred and fifty rupees.
Exemption.	
Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High Court.	
EQUITABLE MORTGAGE. *See* AGREEMENT by way of EQUITABLE MORTGAGE (No. 6).	
31. EXCHANGE OF PROPERTY—Instrument of.	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT. *See* COPY (No. 24).	
32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(*a*) when the original mortgage is one of the description referred to in clause (*a*) of Article No. 40 (that is, with possession);	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.
(*b*) when such mortgage is one of the description referred to in clause (*b*) of article No. 40 (that is, without possession)—	
(*i*) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(*ii*) if possession is not so given . . .	The same duty as a Bond (No. 15) for the amount of the further charge secured by such instrument.
33. GIFT—Instrument of, not being a SETTLEMENT (No. 58) OR WILL OR TRANSFER (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
HIRING AGREEMENT or agreement for service. *See* AGREEMENT (No. 5).	
34. INDEMNITY-BOND	The same duty as a Security-Bond (No. 57) for the same amount.
INSPECTORSHIP-DEED. *See* COMPOSITION-DEED (No. 22).	
INSURANCE. *See* POLICY OF INSURANCE (No. 47).	
35. LEASE, including an under-lease or sub-lease and any agreement to let or sub-let—	
(*a*) where by such lease the rent is fixed and no premium is paid or delivered—	
(*i*) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 15) for the whole amount payable or deliverable under such lease.
(*ii*) where the lease purports to be for a term of not less than one year but not more than three years;	The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved.
(*iii*) where the lease purports to be for a term in excess of three years;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.
(*iv*) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(*v*) where the lease purports to be in perpetuity;	The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(*b*) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
35. LEASE—*contd.*	
(*c*) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
Exemptions.	
(*a*) Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.	
(*b*) Leases of fisheries granted under the Burma Fisheries Act, 1875, or the Upper Burma Land and Revenue Regulation, 1889.[1]	VII of 1875. II of 1889.
36. LETTER OF ALLOTMENT OF SHARES in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.	One anna.
See also CERTIFICATE OR OTHER DOCUMENT (No. 19).	
37. LETTER OF CREDIT, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn.	One anna.
LETTER OF GUARANTEE. *See* AGREEMENT (No. 5).	
38. LETTER OF LICENSE, that is to say, any agreement between a debtor and his creditors, that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion.	Ten rupees.

[1] As to exemption to fisheries in Assam, see note to s. 9, p. 13, *supra*.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
39. MEMORANDUM OF ASSOCIATION OF A COMPANY—	
(*a*) if accompanied by articles of association under section 37 of the Indian Companies Act, 1882; (VI of 1882.)	Fifteen rupees.
(*b*) if not so accompanied	Forty rupees.
Exemption.	
Memorandum of any association not formed for profit and registered under section 26 of the Indian Companies Act, 1882. (VI of 1882.)	
40. MORTGAGE-DEED, not being an AGREEMENT TO MORTGAGE (No. 6), BOTTOMRY BOND (No. 16), MORTGAGE OF A CROP (No. 41), RESPONDENTIA BOND (No. 56), or SECURITY-BOND (No. 57)—	
(*a*) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.
(*b*) when at time of execution possession is not given or agreed to be given as aforesaid;	The same duty as a Bond (No. 15) for the amount secured by such deed.
Explanation.—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.	
(*c*) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	Eight annas.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Eight annas.
Exemptions.	
(*1*) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances. (XIX of 1883. XVI of 1884.)	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
40. MORTGAGE-DEED—*contd.*	
Exemptions—contd.	
(2) Letter of hypothecation accompanying a bill of exchange.	
(3) Instrument of pledge or pawn of goods if unattested.	
41. MORTGAGE OF A CROP, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(*a*) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200	One anna.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	One anna.
(*b*) when the loan is repayable more than three months, but not more than one year, from the date of the instrument—	
for every sum secured not exceeding Rs. 100	Four annas.
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Four annas.
42. NOTARIAL ACT, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 50) made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	One rupee.
See also PROTEST OF BILL OR NOTE (No. 50).	
43. NOTE OR MEMORANDUM sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stock or marketable security exceeding in value twenty rupees.	One anna.
44. NOTE OF PROTEST BY THE MASTER OF A SHIP.	Eight annas.
See also PROTEST BY THE MASTER OF A SHIP (No. 51).	
ORDER FOR THE PAYMENT OF MONEY. *See* BILL OF EXCHANGE (No. 13).	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
45. PARTITION—Instrument of [as defined by s. 2 (*15*)].	The same duty as a Bond (No. 15) for the amount of the value of the separated share or shares of the property.

N.B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that—

(*a*) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas;

(*b*) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue;

(*c*) where a final order for effecting a partition passed by any Revenue authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.

46. PARTNERSHIP—	
A.—INSTRUMENT OF—	
(*a*) where the capital of the partnership does not exceed Rs. 500.	Two rupees eight annas.
(*b*) in any other case	Ten rupees.
B.—DISSOLUTION OF, ...	Five rupees.
47. POLICY OF INSURANCE—	
SEA-INSURANCE (*see* section 7)—	
(1) for or upon any voyage—	
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy;	One anna.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
47. POLICY OF INSURANCE—*contd.*	
SEA-INSURANCE (*see* section 7)—*contd.*	
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy;	Two annas.
(2) for time—	
(iii) in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy—	
where the insurance shall be made for any time not exceeding six months;	Two annas.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas.
B.—FIRE INSURANCE—	
(1) in respect of an original policy—	
for every sum insured not exceeding Rs. 1,000, and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000, for a period—	
(i) not exceeding one month . . .	Two annas.
(ii) exceeding one month, but not exceeding three months;	Three annas.
(iii) exceeding three months, but not exceeding six months;	Four annas.
(iv) exceeding six months	Six annas.
(2) in respect of renewing, for the purpose of keeping in force a policy which has been granted for six months or any shorter term and in respect of which and of the previous renewal whereof (if any) there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months.	The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy and of the previous renewal thereof (if any), whichever is the smaller sum.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
47. POLICY OF INSURANCE—*contd.*	
C.—ACCIDENT AND SICKNESS INSURANCE—	
(*a*) against railway accident, valid for a single journey only.	One anna.
Exemption.	
When issued to a passenger travelling by the intermediate or the third class in any railway.	
(*b*) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000, and also where such amount exceeds Rs. 1,000, for every Rs. 1,000 or part thereof.	Two annas.
D.—LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE AS is described in Division E of this article—	
for every sum insured not exceeding Rs. 1,000, and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—	
(i) if drawn singly	Six annas.
(ii) if drawn in duplicate, for each part .	Three annas.
Exemption.	
Policies of life insurance granted by the Director General of the Post Office of India in accordance with rules for Postal Life Insurance issued under the authority of the Government of India.	
E.—RE-INSURANCE BY AN INSURANCE COMPANY, which has granted a POLICY OF SEA-INSURANCE OR A POLICY OF FIRE-INSURANCE, with another company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.	One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.
General Exemption.	
Letter of cover or engagement to issue a policy of insurance:	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
47. POLICY OF INSURANCE—*concld.*	
Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.	
48. POWER-OF-ATTORNEY [as defined by section 2 (*21*)], not being a PROXY (No. 52),—	
(*a*) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	Eight annas.
(*b*) when required in suits or proceedings under the Presidency Small Cause Courts Act, 1882;	Eight annas. XV of 1882.
(*c*) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (*a*);	One rupee.
(*d*) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally;	Five rupees.
(*e*) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	Ten rupees.
(*f*) when given for consideration and authorizing the attorney to sell any immoveable property;	The same duty as a Conveyance (No. 23) for the amount of the consideration.
(*g*) in any other case	One rupee for each person authorized.
	N.B.—The term "registration" includes every operation incidental to registration under the Indian Registration Act, 1877. III of 1877.
Explanation.—For the purposes of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	
49. PROMISSORY NOTE [as defined by section 2 (*22*)].	The same duty as a Bill of Exchange (No. 13) according as it is payable on demand or payable otherwise than on demand, as the case may be.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
50. **PROTEST OF BILL OR NOTE,** that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	One rupee.
51. **PROTEST BY THE MASTER OF A SHIP,** that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such. *See also* NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44).	One rupee.
52. **PROXY** empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (*a*) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable, (*b*) a local authority, or (*c*) proprietors, members or contributors to the funds of any institution.	One anna.
53. **RECEIPT** [as defined by section 2 (*23*)] for any money or other property the amount or value of which exceeds twenty rupees.	One anna.
Exemptions. Receipt— (*a*) endorsed on or contained in any instrument duly stamped, or exempted under the proviso to section 3 (instruments executed on behalf of the Government) acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal-money, interest or annuity or other periodical payment thereby secured ; (*b*) for any payment of money without consideration ; (*c*) for any payment of rent by a cultivator on account of land assessed to Government revenue, or (in the Presidencies of Fort St. George and Bombay) of Inam lands ;	

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
53. RECEIPT—*contd.*	
Exemptions—contd.	
(*d*) for pay or allowances by non-commissioned officers or soldiers of Her Majesty's Army or Her Majesty's Indian Army, when serving in such capacity, or by mounted police-constables;	
(*e*) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either of the said Armies, and serving in such capacity;	
(*f*) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity;	
(*g*) given by a headman or lambardar for land-revenue or taxes collected by him;	
(*h*) given for money or securities for money deposited in the hands of any banker, to be accounted for: Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for: Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.	
54. RECONVEYANCE OF MORTGAGED PROPERTY—	
(*a*) if the consideration for which the property was mortgaged does not exceed Rs. 1,000;	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.
(*b*) in any other case	Ten rupees.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
55. RELEASE, that is to say, any instrument whereby a person renounces a claim upon another person or against any specified property—	
(*a*) if the amount or value of the claim does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for such amount or value as set forth in the Release.
(*b*) in any other case	Five rupees.
56. RESPONDENTIA BOND, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 15) for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT. *See* SETTLEMENT (No. 58); TRUST (No. 64).	
57. SECURITY-BOND OR MORTGAGE-DEED executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract,—	
(*a*) when the amount secured does not exceed Rs. 1,000;	The same duty as a Bond (No. 15) for the amount secured.
(*b*) in any other case	Five rupees.
Exemptions.	
Bond or other instrument, when executed—	
(*a*) by headmen nominated under rules framed in accordance with the Bengal Irrigation Act, 1876, section 99, for the due performance of their duties under that Act;	
(*b*) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem;	
(*c*) under No. 3A of the rules made by the Governor of Bombay in Council under section 70 of the Bombay Irrigation Act, 1879;	

Ben. Act III of 1876.

Bom. Act V of 1879.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
57. SECURITY-BOND OR MORTGAGE-DEED—*contd.*	
Exemptions—contd.	
(*d*) executed by persons taking advances under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or by their sureties, as security for the repayment of such advances;	XIX of 1883. XII of 1884.
(*e*) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	
58. SETTLEMENT—	
A.—INSTRUMENT OF, (including a deed of dower) .	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property settled as set forth in such settlement: Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.
Exemptions.	
(*a*) Deed of dower executed on the occasion of a marriage between Muhammadans.	
(*b*) Hludansa, that is to say, any settlement of immoveable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified and on which a duty of Rs. 10 has been paid.	
B.—REVOCATION OF—	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.
See also TRUST (No. 64).	
59. SHARE WARRANTS to bearer issued under the Indian Companies Act, 1882.	Three-quarters of the duty payable on a Conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant. VI of 1882.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
59. SHARE WARRANTS—*contd.*	
Exemption.	
Share warrant when issued by a company in pursuance of the Indian Companies Act, 1882, section 30, to have effect only upon payment, as composition for that duty, to the Collector of Stamp-revenue, of— (*a*) three-quarters per centum of the whole subscribed capital of the company, or (*b*) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—three-quarters per centum of the additional capital so issued.	
VI of 1882.	
SCRIP. *See* CERTIFICATE (No. 19).	
60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel.	One anna.
61. SURRENDER OF LEASE—	
(*a*) when the duty with which the lease is chargeable does not exceed five rupees;	The duty with which such lease is chargeable.
(*b*) in any other case	Five rupees.
Exemption.	
Surrender of lease, when such lease is exempted from duty.	
62. TRANSFER (whether with or without consideration)—	
(*a*) of shares in an incorporated company or other body corporate;	One-quarter of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.
(*b*) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8;	One-quarter of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.
(*c*) of any interest secured by a bond, mortgage-deed or policy of insurance—	
(*i*) if the duty on such bond, mortgage-deed or policy does not exceed five rupees;	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(*ii*) in any other case;	Five rupees.

SCHEDULE I—*continued.*

Description of Instrument.	Proper Stamp-duty.
62. TRANSFER—*contd.*	
(*d*) of any property under the Administrator General's Act, 1874, section 31;	Ten rupees. II of 1874.
(*e*) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary.	Five rupees or such smaller amount as may be chargeable under clauses (*a*) to (*c*) of this Article.
Exemptions.	
Transfers by endorsement—	
(*a*) of a bill of exchange, cheque or promissory note;	
(*b*) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods;	
(*c*) of a policy of insurance;	
(*d*) of securities of the Government of India.	
See also section 8.	
63. TRANSFER OF LEASE by way of assignment and not by way of under-lease.	The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.
Exemption.	
Transfer of any lease exempt from duty.	
64. TRUST—	
A.—DECLARATION OF — of, or concerning, any property when made by any writing not being a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.
B.—REVOCATION OF — of, or concerning, any property when made by any instrument other than a WILL.	The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.
See also SETTLEMENT (No. 58).	
VALUATION. *See* APPRAISEMENT (No. 8).	
VAKIL. *See* ENTRY AS A VAKIL (No. 30).	

SCHEDULE I—*concluded.*

Description of Instrument.	Proper Stamp-duty.
65. **WARRANT FOR GOODS**, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Four annas.

SCHEDULE II.

ENACTMENTS REPEALED.

(*See section 79.*)

No.	Year.	Short title.	Extent of repeal.
I	1879	The Indian Stamp Act, 1879	The whole.
VI	1882	The Indian Companies Act, 1882	Section 35.
IX	1884	The Legal Practitioners Act, 1884	Section 10.
I	1888	The Indian Stamp Act (1879) Amendment Act, 1888.	The whole.
V	1888	The Inventions and Designs Act, 1888	So much of the first schedule as relates to the Indian Stamp Act, 1879 (I of 1879).
XVIII	1888	The Burma Financial Commissioner's Act, 1888.	So much of the schedule as relates to the Indian Stamp Act, 1879 (I of 1879).
VI	1889	The Probate and Administration Act, 1889.	Sub-sections (*3*) and (*4*) of section 18.
XX	1890	The North-Western Provinces and Oudh Act, 1890.	So much of section 38 as relates to the Indian Stamp Act, 1879 (I of 1879).
XII	1891	The Repealing and Amending Act, 1891.	So much of Part I of the first and second schedules as relates to the Indian Stamp Act, 1879 (I of 1879).
VI	1894	The Indian Stamp Act (1879) Amendment Act, 1894.	The whole.
XIII	1897	The Indian Stamp Act (1879) Amendment Act, 1897.	The whole.

ACT No. III OF 1899.[1]

[*27th January, 1899.*]

An Act to further amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to further amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows :— XV of 1882.

Short title and commencement.

1. (*1*) This Act may be called the Presidency Small Cause Courts Act, 1899; and

(*2*) It shall come into force at once.

Amendment of section 4, Act XV, 1882.

2. To section 4 of the Presidency Small Cause Courts Act,[2] 1882 (hereinafter referred to as "the said Act"), the words 'and the expression "Registrar" includes a Deputy Registrar' shall be added. XV of 1882.

Substitution of new section for section 8A, Act XV, 1882, as amended by section 4, Act I, 1895.

3. For section 8A of the said Act as amended by the Presidency Small Cause Courts Act, 1895,[3] the following section shall be substituted namely :— I of 1895.

Performance of duties of absent Judge.

"8A. (*1*) During any absence of the Chief Judge or any Judge of the said Court, or during the period for which any Judge is acting as Chief Judge, the Local Government may appoint any person, having the qualifications required by section 7, to act as Chief Judge or Judge of the said Court, as the case may be.

(*2*) Every person so appointed shall be authorized to perform the duties of the Chief Judge or a Judge of the said Court until the return of the absent Chief Judge or Judge, or of the Judge acting as Chief Judge, or until the Local Government sees cause to cancel the appointment of such acting Chief Judge or Judge, as the case may be."

Amendment of section 9, Act XV, 1882, as amended by section 5, Act I, 1895.

4. In section 9, sub-section (*1*), of the said Act as so amended, after clause (*a*) the following clause shall be added, namely :—

"(*aa*) empower the Registrar to hear and dispose of undefended suits and interlocutory applications or matters, and".

Amendment of section 13, Act XV, 1882.

5. In section 13 of the said Act, between the word "appoint" and the words "as many clerks" the words "a Deputy Registrar and" shall be inserted.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 210; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 1; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 101, *ibid*, 1899, Pt. VI, pp. 3 and 16.

[2] General Acts, Vol. IV.

[3] General Acts, Vol. VI.

ACT No. IV OF 1899.[1]

[*3rd February, 1899.*]

An Act to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality.

WHEREAS it is expedient to provide for the exemption from the operation of municipal building laws of certain buildings and lands which are the property, or in the occupation, of the Government and situate within the limits of a municipality; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Government Buildings Act, 1899.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

"Municipal authority" defined.

2. In this Act the expression "municipal authority" includes a municipal corporation or a body of municipal commissioners constituted by, or under the provisions of, any law or enactment for the time being in force.

Exemption of certain Government buildings from municipal laws to regulate the erection, etc., of buildings within municipalities.

3. Nothing contained in any law or enactment for the time being in force to regulate the erection, re-erection, construction, alteration or maintenance of buildings within the limits of any municipality shall apply to any building used or required for the public service or for any public purpose, which is the property, or in the occupation, of the Government, or which is to be erected on land which is the property, or in the occupation, of the Government:

Provided that, where the erection, re-erection, construction or material structural alteration of any such building as aforesaid (not being a building connected with Imperial defence, or a building the plan or construction of which ought, in the opinion of the Government, to be treated as confidential or secret) is contemplated, reasonable notice of the proposed work shall be given to the municipal authority before it is commenced.

Objections or suggestions as to erection, etc., of certain Government buildings

4. (*1*) In the case of any such building as is mentioned in the last preceding section (not being a building connected with Imperial defence or a building the plan or construction of which ought, in the opinion of the Government, to be treated as confidential or secret), the municipal authority, or any person authorized by it in this behalf, may, with the permission of

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1896, Pt. V, p. 256; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 15; and for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 2, 15 and 20.

The Act has been declared in force in the Santhal Parganas by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), *see* the revised edition as modified up to 1st October, 1899, published by the Legislative Department.

within municipalities how to be made and dealt with.

the Local Government previously obtained, but not otherwise, and subject to any restrictions or conditions which may, by general or special order, be imposed by the Local Government, inspect the land and building and all plans connected with its erection, re-erection, construction or material structural alteration, as the case may be, and may submit to the Local Government a statement in writing of any objections or suggestions which such municipal authority may deem fit to make with reference to such erection, re-erection, construction or material structural alteration.

(*2*) Every objection or suggestion submitted as aforesaid shall be considered by the Local Government, which shall, after such investigation (if any) as it shall think advisable, pass orders thereon, and the building referred to therein shall be erected, re-erected, constructed or altered, as the case may be, in accordance with such orders:

Provided that, if the Local Government overrules or disregards any such objection or suggestion as aforesaid, it shall give its reasons for so doing in writing.

(*3*) Every order passed by the Local Government under this section shall be subject to revision by the Governor General in Council, but not otherwise, and the decision of the Governor General in Council thereon shall be final.

ACT No. V OF 1899.[1]

[*10th February, 1899.*]

An Act to further amend the Indian Evidence Act, 1872.[2]

WHEREAS it is expedient to further amend the Indian Evidence Act, 1872;[2] I of 1872.
It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Evidence Act, 1899; and

(*2*) It shall come into force at once.

Addition to section 37, Act I, 1872.

2. To section 37 of the Indian Evidence Act, 1872,[2] the following shall be I of 1872.
added, namely:—

"This section applies also to any Act of the Lieutenant-Governor in Council of the [3] North-Western Provinces and Oudh, the Punjab or Burma".

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 349; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 23; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 389 & *ibid*, 1899, pp. 17 and 24.

The Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), *see* the revised edition as modified up to 1st October, 1899.

[2] General Acts, Vol. II.

[3] For "North-Western Provinces and Oudh," read now "United Provinces of Agra and Oudh," *see* the United Provinces Designation Act, 1902 (VII of 1902), *infra*, p. 207.

XVIII of 1872.

3. (*1*) In section 45 of the said Act, as amended by section 4 of the Indian Evidence Act Amendment Act, after the word "handwriting," in each of the two places in which it occurs, the words "or finger-impressions" shall be inserted. Amendment of section 45, and addition to section 73, Act I, 1872.

(*2*) To section 73 of the said Act the following shall be added, namely:—

"This section applies also, with any necessary modifications, to finger-impressions."

III of 1891.

4. In section 86 of the said Act, as amended by section 8 of the Indian Evidence Act (1872) Amendment Act, 1891, for the second paragraph the following shall be substituted, namely:— Amendment of section 86, Act I, 1872.

"An officer who, with respect to any territory or place not forming part of Her Majesty's dominions, is a Political Agent therefor, as defined in section 3, clause (40), of the General Clauses Act, 1897,[1] shall, for the purposes of this section, be deemed to be a representative of the Government of India in and for the country comprising that territory or place."

X of 1897.

III of 1891.

5. In section 8 of the Indian Evidence Act (1872) Amendment Act, 1891, the words and figures from "and to the same" to the end of the section are hereby repealed. Partial repeal of section 8, Act III, 1891.

ACT No. VI of 1899.[2]

[*17th February, 1899.*]

An Act to amend the Indian Contract Act, 1872.[3]

IX of 1872.

WHEREAS it is expedient to amend the Indian Contract Act, 1872[3]; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Indian Contract Act Amendment Act, 1899. Short title, commencement and application.

(*2*) It shall come into force on the first day of May, 1899; and

(*3*) It shall apply to every contract in respect of which any suit is instituted, or which is put in issue in any suit, after the commencement of this Act.

IX of 1872.

2. Section 16 of the Indian Contract Act, 1872, is hereby repealed, and the following is substituted therefor, namely:— Substitution of new section for section 16, Act IX, 1872.

"16. (*1*) A contract is said to be induced by "undue influence" where the relations subsisting between the parties are such that one of the parties is "Undue influence" defined.

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[1] General Acts, Vol. VI.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 274; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 19; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 293, *ibid*, 1899, Pt. VI, pp. 10 and 207.

[3] General Acts, Vol. II.

in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other.

(2) In particular and without prejudice to the generality of the foregoing principle, a person is deemed to be in a position to dominate the will of another—

(a) where he holds a real or apparent authority over the other, or where he stands in a fiduciary relation to the other; or

(b) where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress.

(3) Where a person who is in a position to dominate the will of another, enters into a contract with him, and the transaction appears, on the face of it or on the evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in a position to dominate the will of the other.

Nothing in this sub-section shall affect the provisions of section 111 of the Indian Evidence Act, 1872.[1] I of 1872.

Illustrations.

(a) A having advanced money to his son, B, during his minority, upon B's coming of age obtains, by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence.

(b) A, a man enfeebled by disease or age, is induced, by B's influence over him as his medical attendant, to agree to pay B an unreasonable sum for his professional services. B employs undue influence.

(c) A, being in debt to B, the money-lender of his village, contracts a fresh loan on terms which appear to be unconscionable. It lies on B to prove that the contract was not induced by undue influence.

(d) A applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. This is a transaction in the ordinary course of business, and the contract is not induced by undue influence."

Amendment of section 19 of, and addition of new section to, Act IX, 1872.

3. In section 19 of the said Act the words "undue influence" are hereby repealed, and after the same section the following is inserted, namely:—

Power to set aside contract induced by undue influence.

"19A. When consent to an agreement is caused by undue influence, the agreement is a contract voidable at the option of the party whose consent was so caused.

Any such contract may be set aside either absolutely or, if the party who was entitled to avoid it has received any benefit thereunder, upon such terms and conditions as to the Court may seem just.

[1] General Acts, Vol. II.

Illustrations.

(*a*) A's son has forged B's name to a promissory note. B, under threat of prosecuting A's son, obtains a bond from A for the amount of the forged note. If B sues on this bond, the Court may set the bond aside.

(*b*) A, a money-lender, advances Rs. 100 to B, an agriculturist, and, by undue influence, induces B to execute a bond for Rs. 200 with interest at 6 per cent. per month. The Court may set the bond aside, ordering B to repay the Rs. 100 with such interest as may seem just."

Amendment of section 74, Act IX, 1872.

4. (*1*) Section 74, paragraph 1, of the said Act is hereby repealed, and the following is substituted therefor, namely:—

Compensation for breach of contract where penalty stipulated for.

"74. When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or, as the case may be, the penalty stipulated for.

Explanation.— A stipulation for increased interest from the date of default may be a stipulation by way of penalty."

(*2*) After *illustration* (*c*) to the said section the following *illustrations* shall be added, namely:—

"(*d*) A gives B a bond for the repayment of Rs. 1,000 with interest at 12 per cent. at the end of six months, with a stipulation that, in case of default, interest shall be payable at the rate of 75 per cent. from the date of default. This is a stipulation by way of penalty, and B is only entitled to recover from A such compensation as the Court considers reasonable.

(*e*) A, who owes money to B, a money-lender, undertakes to repay him by delivering to him 10 maunds of grain on a certain date, and stipulates that, in the event of his not delivering the stipulated amount by the stipulated date, he shall be liable to deliver 20 maunds. This is a stipulation by way of penalty, and B is only entitled to reasonable compensation in case of breach.

(*f*) A undertakes to repay B a loan of Rs. 1,000 by five equal monthly instalments, with a stipulation that, in default of payment of any instalment, the whole shall become due. This stipulation is not by way of penalty, and the contract may be enforced according to its terms.

(*g*) A borrows Rs. 100 from B and gives him a bond for Rs. 200 payable by five yearly instalments of Rs. 40, with a stipulation that, in default of payment of any instalment, the whole shall become due. This is a stipulation by way of penalty."

ACT No. VII OF 1899.[1]

[*17th February, 1899.*]

An Act to further amend the Inland Steam-vessels Act, 1884.[2]

WHEREAS it is expedient to further amend the Inland Steam-vessels Act, 1884, (hereinafter referred to as "the said Act"); It is hereby enacted as follows:— VI of 1884.

Short title and commencement.

1. (*1*) This Act may be called the Inland Steam-vessels Act (1884) Amendment Act, 1899; and

(*2*) It shall come into force at once.

Addition of new section after section 29, Act VI, 1884.

2. After section 29 of the said Act the following section shall be added namely :—

Certificates of competency or service to have effect throughout British India.

"29A. Every certificate of competency or service granted under this Act shall have effect throughout British India."

Addition to heading to Chapter VI, Act VI, 1884.

3. To the heading to Chapter VI of the said Act the words "AND FROM COLLISION" shall be added.

Addition of new section after section 50, Act VI, 1884.

4. After section 50 of the said Act the following section shall be added, namely :—

Power for Local Government to make rules for protection of inland steam-vessels from collision.

"50A. (*1*) The Local Government may make rules for the protection of inland steam-vessels from collision.

(*2*) Rules under this section may regulate the following among other matters, that is to say :—

(*a*) the making of sound-signals;

(*b*) the carriage and exhibition of lights by inland steam-vessels;

(*c*) the carriage and exhibition of lights by other vessels on inland waters on which steam-vessels ply and which are specified in the rules;

(*d*) the steering rules to be observed; and

(*e*) the towing of vessels astern or alongside.

(*3*) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 277; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 17; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 358, *ibid*, 1899, pp. 328 and 352.

[2] General Acts, Vol. V.

THE INDIAN PETROLEUM ACT, 1899.

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ACT No. VIII OF 1899.[1]

[*17th February, 1899.*]

An Act to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances.

WHEREAS it is expedient to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances; It is hereby enacted as follows :—

Preliminary.

Short title, commencement and extent.

1. (*1*) This Act may be called the Indian Petroleum Act, 1899; and

(*2*) It shall come into force at once.

(*3*) Sections 1 to 3, section 25, and all the provisions of this Act in so far as they relate to dangerous petroleum and the importation of petroleum, extend to the whole of British India. The rest[2] of this Act extends only to such local areas as the Local Government may, by notification in the local official Gazette, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "petroleum" includes also—

(*i*) the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, paraffin oil, mineral oil, kerosine, petroline, gasoline, benzoline, benzine and benzol;

(*ii*) any inflammable liquid which is made from petroleum, coal, schist shale, peat or any other bituminous substance, or from any product of petroleum; and

(*iii*) any liquid, or viscous mixture having in its composition any of the liquids aforesaid;

but it does not include any oil ordinarily used for lubricating purposes and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 13; for Report of the Select Committee, *see ibid*, p. 25; for Proceedings in Council, *see ibid*, Pt. VI, pp. 12 and 24.

The Act has been declared in force in the Sonthal Parganas by the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), *see* the revised edition as modified up to the 1st October, 1899.

[2] The rest of the Act was extended to—

(1) Coorg—*see* Coorg District Gazette, 1899, Pt. I, p. 125;
(2) Ajmer-Merwara—*see* Gazette of India, 1901, Pt. II, p. 1178;
(3) the Punjab—*see* Punjab Gazette, 1902, Pt. I, p. 21;
(4) certain places in the Madras Presidency—*see* Fort St. George Gazette, 1900, Pt. I, p. 616;
(5) the whole of the Madras Presidency—*see* Fort St. George Gazette, 1901, Pt. I, p. 325;
(6) Burma (except the Shan States)—*see* Burma Gazette, 1901, Pt. I, p. 87;
(7) the United Provinces—*see* North-Western Provinces and Oudh Gazette, 1901, Pt. I, p. 267;
(8) the Bombay Presidency—*see* Bombay Government Gazette, 1901, Pt. I, p. 902;
(9) the North-West Frontier Province—*see* Gazette of India, 1903, Pt. II, p. 969.

(*b*) [1]"dangerous petroleum" means petroleum having its flashing point below seventy-six degrees of Fahrenheit's thermometer:

Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous, if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit's thermometer, and if no one of these samples has its flashing point below seventy degrees of that thermometer:

(*c*) to "import" means to bring into British India by sea or land:

(*d*) to "transport" means to remove within British India from one place to another:

(*e*) "prescribed" means prescribed by rules made under this Act: and

(*f*) "ship" includes anything made for the conveyance by water of human beings or property.

Matters supplemental to definitions.

3. (*1*) The "flashing point" of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the first schedule with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing, have been made.

(*2*) Notwithstanding anything in the definitions of "import" and "transport," the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare—

[2] (*a*) that petroleum imported into the Province from any part of British India, by sea or across intervening territory not being part of

[1] For rules as to carriage of petroleum in ships leaving British India, to which the Native Passenger Ships Act, 1887 (X of 1887), applies, *see* Gazette of India, 1903, Pt. I, p. 803. The same notification prohibits the carriage of dangerous petroleum in such ships.

For rules as to control of vessels entering Calcutta with petroleum in bulk under the Indian Ports Act, 1889, *see* Calcutta Gazette, 1903, Pt. I, p. 1165.

[2] Petroleum imported into Chittagong by sea from any port in Burma is to be deemed to be transported within the meaning of this clause, *see* Notification No. 134-Marine, dated 27th July, 1900, Calcutta Gazette, 1900, Pt. I, p. 828.

For notifications under this clause affecting petroleum imported into—

Madras, *see* Fort St. George Gazette, 1900, Pt. I, p. 169;
Calcutta, *see* Calcutta Gazette, 1900, Pt. I, p. 828;
the Bombay Presidency, *see* Bombay Government Gazette, 1901, Pt. I, p. 102;
Burma, *see* Burma Gazette, 1903, Pt. I, p. 14.

British India, shall, for all or any of the purposes of this Act, be deemed to be transported; and

(*b*) that petroleum transported into the Province from any place in British India shall, for all or any of those purposes, be deemed to be imported;

and thereupon the provisions of this Act, and of the rules made under this Act, with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

Power to vary tests and prescribe new tests.

4. (*1*) The Governor General in Council may, by notification in the Gazette of India, alter or add to [1] the First Schedule by laying down new or varied tests and directions for preparing and using them; and, after the issue of any such notification as aforesaid, the reference in section 3, sub-section (*1*), to the First Schedule shall be construed as referring to the said schedule as so altered or added to for the time being.

(*2*) The Governor General in Council may, in like manner, lay down special tests and issue special instructions in respect of the testing of any substance other than petroleum to which the whole or any portion of this Act may be applied in exercise of the power conferred by section 22, and for which the tests in the First Schedule are unsuitable.

(*3*) The provisions of section 23 of the General Clauses Act, 1897,[2] shall apply to notifications under this section as if they were rules or orders required to be made after previous publication. X of 1897.

Dangerous Petroleum.

Dangerous petroleum in quantities exceeding forty gallons.

5. (*1*) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported or kept by any one person or on the same premises, except under, and in accordance with the conditions (if any) of, a license from the Local Government * * *.[3]

(*2*) Every application for such a license shall be in writing in the prescribed form,[4] and shall contain the prescribed particulars.

Dangerous petroleum in quantities not exceeding forty gallons.

6. No quantity of dangerous petroleum equal to, or less than, forty gallons shall be kept or transported without a license:

Provided that nothing in this section shall apply in any case where the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in

[1] For notification making an addition to the First Schedule, *see* Gazette of India, 1900, Pt. I, p. 408.

[2] General Acts, Vol. VI.

[3] The words "granted as next hereinafter provided" were repealed by the Repealing and Amending Act, 1901 (XI of 1901), *infra*, page 179.

[4] For form of application for a license to import, transport and possess petroleum in Burma, *see* Burma Gazette, 1900, Pt. I, p. 683.

separate glass, stoneware or metal vessels, each of which contains not more than a pint and is securely stopped.

Vessels containing dangerous petroleum to be labelled.

7. Dangerous petroleum—

(*a*) which is imported and is kept at any place after seven days from the date of its importation, or

(*b*) which is transported, or

(*c*) which is sold or exposed for sale,

shall be contained in vessels having attached thereto labels in conspicuous characters stating the description of the petroleum, with the addition of the words "highly inflammable" and with the addition,—

(*d*) in the case of a vessel kept, of the name and address of the consignee or owner;

(*e*) in the case of a vessel transported, of the name and address of the sender; and,

(*f*) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum generally.

Power for Governor General in Council to make rules.

8. (*1*) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such[1] rules may provide for the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases in which such licenses are by law required.

Power for Local Government to make rules.

9. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may make rules[2] to regulate the importation of

[1] For rule as to the transport of Petroleum from one Province of British India to another, *see* Gazette of India, 1902, Pt. I, p. 889.

[2] For rules under this section for refining and testing of petroleum produced in Burma, *see* Burma Gazette, 1899, Pt. I, p. 215, and *ibid*, 1902, Pt. I, p. 493.

For rules regulating import by sea of petroleum into (1) Bengal, *see* Calcutta Gazette, 1892, Pt. I, p. 973, *ibid*, 1894, Pt. I, p. 889, *ibid*, 1895, Pt. I, p. 994; (2) Bombay, *see* Bombay Government Gazette, 1890, Pt. I, p. 341; (3) Burma, *see* Burma Rules Manual, Ed. 1897, p. 157, and (4) Madras, *see* Fort St. George Gazette, 1904, Pt. I, p. 136.

For rules regulating the import, possession, sale and transport of carbide of calcium in—

(*1*) Assam, *see* Assam Gazette, 1902, Pt. II, p. 591;
(*2*) Bengal, *see* Calcutta Gazette, 1903, Pt. I, p. 1451;
(*3*) Bombay, *see* Bombay Government Gazette, 1903, Pt. I, p. 1460;
(*4*) Burma, *see* Burma Gazette, 1901, Pt. I, p. 450, *ibid*, 1903, Pt. I, p. 727;
(*5*) Central Provinces, *see* Central Provinces Gazette, 1901, Pt. III, p. 250, *ibid*, 1902, Pt. III, p. 217;
(*6*) Coorg, *see* Coorg District Gazette, 1902, Pt. I, p. 63;
(*7*) Madras, *see* Fort St. George Gazette, 1902, Pt. I, p. 74;
(*8*) Punjab, *see* Punjab Gazette, 1901, Pt. I, p. 1123, *ibid*, 1902, Pt. I, p. 596;
(*9*) United Provinces, *see* the North-Western Provinces and Oudh Gazette, 1901, Pt. I, p. 572, and United Provinces Gazette, 1902, Pt. I, p. 424;

For rules regulating the grant of licenses to possess or transport petroleum in—

(*1*) Ajmer-Merwara, *see* Gazette of India, 1903, Pt. II, p. 108;
(*2*) Assam, *see* Assam Gazette, 1903, Pt. II, p. 406;
(*3*) Bengal, *see* Calcutta Gazette, 1895, Pt. I, p. 504, amended, *see* Notification No. 72, *ibid*, 1895, Pt. I, p. 600, *ibid*, 1897, Pt. I, p. 326;
(*4*) Bombay, *see* Bombay Government Gazette, 1902, Pt. I, p. 909;

petroleum and the granting of licenses to possess or to transport petroleum within the Province in cases in which such licenses are by law required.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) determine the ports at which alone petroleum may be imported;

(*b*) provide for ascertaining the quantity and description of any petroleum on board any ship;

(*c*) determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped or stored;

(*d*) provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed;

(*e*) provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples;

(*f*) provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples;

(*g*) fix fees for the sampling and testing of petroleum;

(*h*) fix fees for the storage of petroleum unless any local authority is empowered in that behalf;

(*i*) define, with respect to any petroleum produced within the Province, the limits of the places in which such petroleum is to be refined[1],[3];

(*j*) provide for the testing at or near those places of petroleum so produced[2],[3];

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(5) Burma, *see* Burma Gazette, 1903, Pt. I, p. 82; as to grant to owners of motor cars of special licenses to keep and transport petrol for use in such cars, *see* Burma Gazette, 1904, Pt. I, p. 151;

(6) Central Provinces, *see* Central Provinces Gazette, 1901, Pt. III, p. 35.

(7) Coorg, *see* Coorg District Gazette, 1901, Pt. I, p. 116;

(8) Madras, *see* Fort St. George Gazette, 1904, Pt. I, p. 138;

(9) Punjab, *see* Punjab Gazette, 1902, Pt. I, p. 22;

(10) United Provinces, *see* North-Western Provinces and Oudh Gazette, 1901, Pt. I, p. 678, and United Provinces Gazette, 1903, Pt. I, pp. 270 and 879.

[1] For notification issued under this clause by (1) the Government of Burma, *see* Burma Gazette, 1902, Pt. I, p. 750; (2) the Chief Commissioner of Assam, *see* Assam Gazette, 1903, Pt. II, p. 479.

[2] For list of testing officers appointed by the Government of Burma, *see* Burma Gazette, 1902, Pt. I, p. 751.

[3] For rules as to refining and testing petroleum produced in Assam, *see* Assam Gazette, 1903, Pt. II, p. 414.

(*k*) prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum so produced which has not satisfied the prescribed tests [1];

(*l*) prescribe the authority by which licenses to possess or to transport petroleum may be granted;

(*m*) fix the fee to be charged for any such license;

(*n*) limit the quantity of petroleum to be covered by any such license;

(*o*) prescribe the conditions which may be inserted in any such license;

(*p*) limit the time during which any such license is to continue in force;

(*q*) provide for the renewal of any such license;

(*r*) provide for the nature and situation of the premises in respect of which licenses to possess petroleum may be granted, the inspection of premises so licensed and the testing of petroleum found thereon; and

(*s*) prescribe the manner in which the petroleum covered by a license to transport is to be packed, the mode and time of its transit, the route by which it is to be taken, and its stoppage and inspection during transit.

Procedure after petroleum has been discharged or landed.

10. (*1*) Petroleum discharged into boats or landed in accordance with rules made under section 9, sub-section (*2*), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer [2] appointed by the Local Government in this behalf and the officer has given a certificate that the petroleum is not dangerous petroleum.

(*2*) If the officer, after testing the samples, refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

(*a*) to rectify the petroleum,

(*b*) to apply for a license to import the petroleum as dangerous petroleum, or

(*c*) to re-export the petroleum.

(*3*) If the consignee does not, within the time fixed under sub-section (*2*), avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government may direct.

(*4*) Notwithstanding anything in the foregoing provisions of this section the Local Government, in its discretion, may, where the officer has refused

[1] For rules as to refining and testing petroleum produced in Assam, *see* Assam Gazette, 1903, Pt. II, p. 414.

[2] For officer appointed by (*1*) Government of Bengal, *see* Calcutta Gazette, 1903, Pt. I, p. 937; (*2*) Assam, *see* Assam Gazette, 1903, Pt. I, p. 474.

the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

Possession and transport of petroleum.

11. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises, or shall be transported, except under, and in accordance with the conditions of, a license granted under this Act :

Provided that the Local Government may, by notification in the local official Gazette, exempt from the operation of this section petroleum when transported in such particular manner and under such particular conditions as may be set forth in the notification.

Power to inspect and require dealer to sell samples.

12. Any officer specially authorized[1] in this behalf by the Local Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

Notice to be given when officer proposes to test samples.

13. When any such officer has, in exercise of the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that he is about to test the sample, or cause it to be tested, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

Certificate as to result of testing.

14. On any such testing, if it appears to the officer or other person so testing that the petroleum from which the sample has been taken, is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be proof of the fact stated therein, and a certified copy of the certificate shall be given free of charge, to the dealer at his request.

Penalties.

Penalty for illegal importation, possession or transport of petroleum or for refusal to comply with section 12.

15. Whoever,—

(*a*) in contravention of this Act or of any of the rules thereunder, imports, possesses or transports any petroleum ; or

(*b*) otherwise contravenes any such rules as aforesaid ; or

(*c*) breaks any condition contained in a license granted under this Act ; or,

[1] For instance of such a notification, *see* Gazette of India, 1903, Pt. II, p. 180.

(*d*) being a dealer in petroleum, refuses or neglects to show to any officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples;

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for contravention of section 7.

16. Whoever keeps, sells or exposes for sale dangerous petroleum in vessels not labelled as prescribed by section 7 shall be punishable with fine which may extend to five hundred rupees.

Confiscation of petroleum.

17. In any case in which an offence under section 15, clause (*a*), clause (*b*) or clause (*c*), or section 16 has been committed, the convicting Magistrate may direct that—

(*a*) the petroleum in respect of which the offence has been committed, or

(*b*) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of,

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction.

18. The criminal jurisdiction under this Act shall, in the Presidency-towns, be exercised by a Presidency Magistrate, and, elsewhere, by a Magistrate of the first class or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Test-apparatus.

Model test-apparatus.

19. A model of the apparatus for testing petroleum under this Act shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatus."

Verification of test-apparatus.

20. (*1*) The Chemical Examiner shall, on payment of the prescribed fee (if any), compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(*2*) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (*1*), is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number and with the date of the verification,

and shall further give a certificate[1] in writing under his hand, in the prescribed form, to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(*3*) A certificate granted under this section shall, until the contrary is proved, be proof of the matters stated therein.

(*4*) The Chemical Examiner shall keep a register, in the prescribed form, of all certificates granted under this section.

(*5*) Subject to the payment of the prescribed fees (if any), the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

Power to exempt petroleum from operation of Act.

21. The Local Government may, by notification in the local official Gazette, exempt[2] from the operation of all or any of the provisions of this Act, or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

Power to apply Act to other substances.

22. (*1*) The Governor General in Council may, by notification[3] in the Gazette of India, apply the whole or any portion of this Act to any substance, other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 11, the quantities of the substance to which those sections shall apply.

(*2*) When the whole or any portion of this Act has been applied as aforesaid to any substance other than petroleum, the provisions so applied shall be construed with all necessary modifications and shall have effect as if such other substance had been included in the definition of petroleum.

Power to limit operation of enactments, relating to possession or transport of petroleum, in municipalities.

23. The Governor General in Council may, by notification in the Gazette of India and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to local authorities in any local area or to any particular local authority, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

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[1] For revised form of certificate, *see* Gazette of India, 1899, Pt. I, p. 1102.

[2] For instance of notification under this section exempting shale oil, *see* Bombay Government Gazette, 1899, Pt. I, p. 1154.

[3] The provisions of ss. 5, 6, 8 to 10, 23 and 24 have been applied, under this section, to carbide of calcium, *see* Notification No. 1118, dated 11th August, 1899, Gazette of India, 1899, Pt. I, p. 759.

24. (*1*) Every power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication in such manner[1] as the Governor General in Council may, by notification in the Gazette of India, direct. Previous publication, etc., of rules.

(*2*) All rules made by the Governor General in Council or by the Local Government under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted by this Act.

25. The enactments mentioned in the second schedule are hereby repealed to the extent specified in the fourth column thereof. Repeal.

THE FIRST SCHEDULE.

TESTING.

(*See section 3.*)

I.—Nature of the Test-apparatus.

The apparatus consists of the following parts:—

(1) the oil-cup;
(2) the cover, with slide, test-lamp, and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame;
(3) the water-bath or heating vessel;
(4) the tripod stand with jacket and spirit-lamp for heating the water-bath;
(5) the thermometer for indicating the temperature of the oil in the oil-cup;
(6) the thermometer for indicating the temperature of the water in the water-bath;
(7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
(8) the dropping bottle or *pipette* for replenishing the test-lamp; and
(9) a barometer standardised at the Meteorological office of the Province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close-fitting overlapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the

[1] For rules as to the manner of publication, *see* Gazette of India, 1899, Pt. I, p. 244.

cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two: consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small wing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

II.—Directions for drawing the sample and preparing it for testing.

1. Drawing the sample.—In all cases the testing officer or some person duly authorized by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or cyphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about forty fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing wax worked into it. The other bottle may be either stoppered or corked.

2. Preparing the sample for testing.—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—Directions for preparing and using the Test-apparatus.

1. Preparing the water-bath.—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. Preparing the test-lamp.—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp

becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit, the clockwork is set in motion by pressing the trigger.

If no flash takes place, the clockwork is at once rewound and the trigger pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit, the temperature at which it occurs is to be recorded. Two fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, and if in no instance the flash has taken place within eight degrees of the temperature at which the testing is commenced, each result is to be corrected for atmospheric pressure as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, while in no instance has the flash taken place within eight degrees of the temperature at which the testing was commenced, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on, until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

If, however, a flash has occurred at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2° and until a flash has not occurred in any of the three tests within eight degrees of the temperature at which the testing is commenced: Provided always that, if at the commencement of the series of tests a flash has occurred on the first application of the test-flame at 56°, and if a flash has also occurred on the first application of the flame in each of three successive tests in which, thereupon, the test-flame is first applied at 46° as above directed, the testing officer shall certify that the petroleum has a flashing point below 47°, and the sample shall be reported dangerous.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But, if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its

flashing point at or above 200° or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe) The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied from 96° Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit or 120° Fahrenheit, as the case may be, has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at 2 without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner:—

Example.—An oil has given a flashing point of 71°, the barometer being at 28·6 inches; take the nearest number to 71° in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is 73°.

[1] [6. Application of the test to viscous fluids or preparations, such as solutions of india-rubber in mineral naphtha, or thick paint made with that material.

About a teaspoonful of the substance to be tested is placed in the cup, and the cover fitted with a thermometer is put on.

The cup thus prepared for the test is then cooled down until the thermometer indicates a temperature of 50° Fahrenheit. This may be accomplished either by placing the prepared cup in a refrigerator or by immersing it up to its projecting collar in water which is maintained at a sufficiently low temperature until the result specified has been obtained.

The prepared cup thus cooled is then transferred to the water-bath, the temperature of which has previously been raised to 76° Fahrenheit. (The scale of the thermometer in the water-bath should range from 60° to 180° Fahrenheit).

[1] This paragraph was added by Notification No. 928 (J) dated the 28th June, 1900, *see* Gazette of India, 1900, Pt. I, p. 403.

The test is then applied as described in section 4 of this part. If no flash has taken place when the temperature in the cup has reached 75°, the test need not be continued.

The temperature at which the flash occurs is the observed flashing point of the substance and subject to correction of atmospheric pressure as prescribed in the Act, is the true flashing point.]

IV.—Directions for determining the flashing point of petroleum which is not fluid at ordinary temperatures.

1. Nature of the test-apparatus.—The instrument employed is the Abel-Pensky petroleum testing appartus, fitted with an additional thermometer to indicate the temperature of the oil in close proximity to the walls of the cup. This thermometer has a cylindrical bulb, $\frac{3}{4}$ inch in length and $\frac{3}{16}$ inch in diameter. It is scaled from 45° to 165° Fahrenheit, ten degrees on the scale occupying $\frac{3}{8}$ inch. The thermometer is held vertically in a socket attached to the cover of the oil-cup in such a position that the bulb is $\frac{1}{10}$ inch from the side of the cup.

(The thermometer can be removed and the orifice which is provided for it closed by means of an india-rubber plug, if the apparatus is required for testing petroleum in the ordinary way.)

2. Directions for preparing the sample for testing.—About ten fluid ounces of the oil are placed in a pint-flask, the mouth of which is then closed with an india-rubber stopper and the sample is liquefied by placing the flask in a water-bath, the temperature of which is only raised sufficiently high to liquefy the oil.

3. Directions for preparing and using the test-apparatus.—The water-bath and test-lamp are to be prepared in the manner prescribed in Part III of this Schedule. The oil-cup is to be filled with the liquefied oil, and the cover (into which both thermometers are to be previously inserted) placed on it, care being taken that the bulb of the additional thermometer is not brought into contact with the bracket-gauge fixed inside the cup. The oil-cup is then to be placed in a refrigerator, or plunged up to the projecting collar in water maintained at sufficiently low temperature, until both thermometers indicate the temperature at which the testing of petroleum is directed in Part III of this Schedule to be commenced. The oil-cup is then to be removed, wiped dry and placed in the water-bath, and the testing effected in the manner prescribed in Part III of this Schedule, the temperature indicated by the additional (vertical) thermometer alone being noted, and the average of three determinations, duly corrected for atmospheric pressure, being recorded as the flashing point of the sample, provided that no greater difference than 4° Fahrenheit exists between any two of such results.

Table for correction of Flashing Points indicated by the test for Variations in Barometric Pressure on either side of Thirty Inches.

Barometer in inches.

27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2	29·4	29·6	29·8	30	30·2	30·4	30·6	30·8	31
Flashing Point in Degrees Fahrenheit.																				
60·2	60·5	60·8	61·2	61·5	61·8	62·1	62·4	62·8	63·1	63·4	63·7	64	64·4	64·7	65	65·3	65·6	66	66·3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66·3	66·6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65·1	65·4	65·7	66	66·4	66·7	67	67·3	67·6	68	68·3	68·6
63·2	63·5	63·8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66·7	67	67·4	67·7	68	68·3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65·8	66·1	66·4	66·8	67·1	67·4	67·7	68	68·4	68·7	69	69·3	69·6	70	70·3	70·6
65·2	65·5	65·8	66·2	66·5	66·8	67·1	67·4	67·8	68·1	68·4	68·7	69	69·4	69·7	70	70·3	70·6	71	71·3	71·6
66·2	66·5	66·8	67·2	67·5	67·8	68·1	68·4	68·8	69·1	69·4	69·7	70	70·4	70·7	71	71·3	71·6	72	72·3	72·6
67·2	67·5	67·8	68·2	68·5	68·8	69·1	69·4	69·8	70·1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68·8	69·2	69·5	69·8	70·1	70·4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74·6
69·2	69·5	69·8	70·2	70·5	70·8	71·1	71·4	71·8	72·1	72·4	72·7	73	73·4	73·7	74	74·3	74·6	75	75·3	75·6
70·2	70·5	70·8	71·2	71·5	71·8	72·1	72·4	72·8	73·1	73·4	73·7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71·2	71·5	71·8	72·2	72·5	72·8	73·1	73·4	73·8	74·1	74·4	74·7	75	75·4	75·7	76	76·3	76·6	77	77·3	77·6
72·2	72·5	72·8	73·2	73·5	73·8	74·1	74·4	74·8	75·1	75·4	75·7	76	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74·8	75·1	75·4	75·8	76·1	76·4	76·7	77	77·4	77·7	78	78·3	78·6	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75·8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79·6	80	80·3	80·6
75·2	75·5	75·8	76·2	76·5	76·8	77·1	77·4	77·8	78·1	78·4	78·7	79	79·4	79·7	80	80·3	80·6	81	81·3	81·6

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 25.*)

Year.	Number.	Short title.	Extent of repeal.
1886	XII	The Petroleum Act, 1886.	The whole.
1890	XIV	The Petroleum Act (1886) Amendment Act, 1890.	Ditto.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act XII of 1886.
1897	XIV	The Indian Short Titles Act, 1897.	So much as relates to Act XIV of 1890.
1898	VII	The Petroleum Act, 1898.	The whole.

ACT No. IX OF 1899.[1]

[*3rd March, 1899.*]

An Act to amend the Law relating to Arbitration.

WHEREAS it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Arbitration Act, 1899.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on the first day of July, 1899.

Application.

2. Subject to the provisions of section 23, this Act shall apply only in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted in a Presidency-town:

Provided that the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare this Act applicable in any other local area,[2] as if it were a Presidency-town.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 286; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 31; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 366, and *ibid*, 1899, Pt. VI, pp. 17, 52 and 60.

[2] The Act has been declared applicable to the town of Karachi, *see* Bombay Government Gazette, 1899, Pt. I, p. 1127.

Exclusion of certain enactments in certain cases where Act applies.

3. The last thirty-seven words of section 21 of the Specific Relief Act,[1] 1877, and sections 523 to 526 of the Code of Civil Procedure shall not apply to any submission or arbitration to which the provisions of this Act for the time being apply: I of 1877. XIV of 1882.

Provided that nothing in this Act shall affect any arbitration pending in a Presidency-town at the commencement of this Act or in any local area at the date of the application thereto of this Act as aforesaid, but shall apply to every arbitration commenced after the commencement of this Act or the date of the application thereof, as the case may be, under any agreement or order previously made:

Provided, also, that nothing in this Act shall affect the provisions of the Indian Companies Act, 1882,[2] relating to arbitration. VI of 1882.

Definitions.

4. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "the Court" means, in the Presidency-towns, the High Court, and, elsewhere, the Court of the District Judge; and

(*b*) "submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

Submission to be irrevocable except by leave of Court.

5. A submission, unless a different intention is expressed therein, shall be irrevocable, except by leave of the Court.

Provisions implied in submissions.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the First Schedule, in so far as they are applicable to the reference under submission.

Reference to arbitrator to be appointed by third person.

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

Illustration.

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by the Bengal Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of the Bengal Chamber of Commerce.

Power for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

8. (*1*) In any of the following cases:—

(*a*) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;

[1] General Acts, Vol. III.
[2] General Acts, Vol. IV.

(*b*) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;

(*c*) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;

(*d*) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in appointing an arbitrator, umpire or third arbitrator.

(*2*) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

Power for parties in certain cases to supply vacancy.

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

(*a*) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, or is removed, the party who appointed him may appoint a new arbitrator in his place;

(*b*) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the Court may set aside any appointment made in pursuance of clause (*b*) of this section.

Powers of arbitrator.

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein,—

(*a*) have power to administer oaths to the parties and witnesses appearing;

(*b*) have power to state a special case for the opinion of the Court on any question of law involved ; and

(*c*) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Award to be signed and filed.

11. (*1*) When the arbitrators or umpire have made their award, they shall sign it and shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

(*2*) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(*3*) Where the arbitrators or umpire state a special case under section 10, clause (*b*), the Court shall deliver its opinion thereon; and such opinion shall be added to, and shall form part of, the award.

Power for Court to enlarge time for making award.

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

Power to remit award.

13. (*1*) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

(*2*) Where an award is remitted under sub-section (*1*), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

Power to set aside award.

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

Award when filed to be enforceable as a decree.

15. (*1*) An award on a submission, on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court.

(*2*) An award may be conditional or in the alternative.

Illustration.

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove him. Power to remove arbitrator or umpire.

17. Any order made by the Court under this Act may be made on such terms as to costs or otherwise as the Court thinks fit. Costs.

18. The forms set forth in the Second Schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question. Forms.

19. Where any party to a submission to which this Act applies, or any person claiming under him, commences any legal proceedings against any other party to the submission, or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings. Power to stay proceedings where there is a submission.

20. The High Court may make rules [1] consistent with this Act as to— Power for High Court to make rules.

(*a*) the filing of awards and all proceedings consequent thereon or incidental thereto;

(*b*) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;

(*c*) the transfer to Presidency Courts of Small Causes for execution of awards filed, where the sum awarded does not exceed two thousand rupees;

(*d*) the staying of any suit or proceeding in contravention of a submission to arbitration; and,

(*e*) generally, all proceedings in Court under this Act.

I of 1877. **21.** In section 21 of the Specific Relief Act, 1877,[2] after the words "Code of Civil Procedure" the words and figures "and the Indian Arbitration Act, 1899," shall be inserted, and for the words "a controversy" the words "present or future differences" shall be substituted. Amendment of section 21, Act I, 1877.

22. The provisions of this Act shall be binding on the Crown. Crown to be bound.

[3]**23.** (*1*) This Act shall apply within the local limits of the ordinary civil Special provision as to

[1] For rules made by the High Court, Calcutta, Original Side, under this Act, *see* Gazette of India, 1900, Pt. II, p. 1029.

[2] General Acts, Vol. III.

[3] S. 23 was substituted by the Lower Burma Courts Act, 1900 (VI of 1900), s. 47 and Sch. I.

application of Act to Rangoon.

jurisdiction of the Chief Court of Lower Burma in cases where, if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted within those local limits.

(2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a Presidency-town.

THE FIRST SCHEDULE.

(*See section 6.*)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

VI. The parties to the reference, and all persons claiming through them respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire, all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

IX. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

THE SECOND SCHEDULE.

(*See section 18.*)

FORM I.

Submission to single arbitrator.

In the matter of the Indian Arbitration Act, 1899:—

Whereas differences have arisen and are still subsisting between A. B. of and C. D. of concerning ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.

C. D.

Dated the , *189* .

FORM II.

Submission of particular dispute to single arbitrator.

In the matter of the Indian Arbitration Act, 1899:—

Whereas differences have arisen and are still subsisting between A. B. of C. D. of concerning ;

Now we, the said A. B. and C. D., do hereby agree to refer the said matters in difference to the award of X. Y.

(*Signed*) A. L.

C. D.

Dated the , *189* .

FORM III.

Appointment of single arbitrator under agreement to refer future differences to arbitration.

In the matter of the Indian Arbitration Act, 1899:—

Whereas, by an agreement in writing, dated the day of 18 , and made between A. B. of and C. D. of , it is provided that differences arising between the parties thereto shall be referred to an arbitrator as therein mentioned;

And whereas differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning ;

Now we, the said parties, A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(*Signed*) A. B.

C. D.

Dated the , *189*

(*The Second Schedule.—Forms.*)

FORM IV.

Enlargement of time by arbitrator by endorsement on submission.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—.

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (*or* above) submission until the day of 189 .

(*Signed*) X. Y.,

Dated the , *189* . *Arbitrator.*

FORM V.

Special case.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

The following special case is, pursuant to the provisions of section 10, clause (*b*), of the said Act, stated for the opinion of the *:—

*Here specify the Court.

(*Here state the facts concisely in numbered paragraphs.*)

The questions of law for the opinion of the said Court are :—

First, whether _____

_____

Secondly, whether _____

_____

(*Signed*) X. Y.,

Dated the , *189* *Arbitrator.*

FORM VI.

Award.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

Whereas in pursuance of an agreement in writing dated the day of 189 , and made between A. B. of and C. D. of , the said A. B. and C. D. have referred to me, X. Y., the matters in difference between them concerning

(*or as the case may be*);

Now I, the said X. Y., having duly considered the matters submitted to me, do hereby make my award as follows :—

I award—

(1) that _____

_____

(2) that _____

_____

(*Signed*) X. Y.,

Dated the , *189* . *Arbitrator.*

ACT No. X OF 1899.[1]

[*3rd March, 1899.*]

An Act to amend the law relating to Carriers.

WHEREAS it is expedient to amend the law relating to carriers; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Carriers Act, 1899; and

(*2*) It shall come into force on the first day of May, 1899.

Short title and commencement.

III of 1865.

2. After section 9 of the Carriers Act, 1865, the following section shall be added, namely:—

Addition of new section after section 9, Act III, 1865.

"10. No suit shall be instituted against a common carrier for the loss of, or injury to, goods entrusted to him for carriage, unless notice in writing of the loss or injury has been given to him before the institution of the suit and within six months of the time when the loss or injury first came to the knowledge of the plaintiff."

Notice of loss or injury to be given within six months.

XV of 1877.

3. (*1*) In Part IV of the first division of the second schedule to the[2] Indian Limitation Act, 1877, after the entry numbered 29 the following entries shall be inserted, namely:—

Amendment of Schedule II, Act XV, 1877.

"30.—Against a carrier for compensation for losing or injuring goods.	Ditto .	When the loss or injury occurs.
31.—Against a carrier for compensation for non-delivery of, or delay in delivering, goods.	Ditto .	When the goods ought to be delivered."

(*2*) In Part V of the same division of the said schedule, the entries numbered 30 and 31, respectively, are hereby repealed; and, in the entry numbered 32, for the word "Ditto" in the second column the words "Two years" shall be substituted.

ACT No. XI OF 1899.[3]

[*10th March, 1899.*]

An Act to further amend the Court-fees Act, 1870.[4]

VII of 1870.

WHEREAS it is expedient to further amend the Court-fees Act, 1870[4]; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Court-fees Amendment Act, 1899; and

Short title and

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 355; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 37; for Proceedings in Council, *see ibid.*, 1898, Pt. VI, p. 395; *ibid.*, 1899, Pt. VI, pp. 25, 52 and 59.

The Act has been declared in force in the Santhal Parganas, by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), *see* the revised edition as modified up to 1st October, 1899.

[2] *See* the revised edition of the Act as modified up to 31st December, 1900.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1897, Pt. V, p. 111; for Report of the Select Committee, *see ibid*, 1899, Pt. V, p. 41; for Proceedings in Council, *see ibid*, 1898, Pt. VI, pp. 2 and 98; *ibid*, 1899, Pt. VI, pp. 2, 60 and 73.

This Act has been declared in force in the Santhal Parganas, by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), s. 3, *see* the revised edition as modified up to 1st October, 1899.

[4] General Acts, Vol. II.

commencement.

(*2*) It shall come into force at once.

Addition of new sections after section 19G, Act VII, 1870.

2. After section 19 G of the Court-fees Act, 1870, the following sections shall be added, namely:— VII of 1870.

Notice of applications for probate or letters of administration to be given to Revenue authorities, and procedure thereon.

"19H. (*1*) Where an application for probate or letters of administration is made to any Court other than a High Court, the Court shall cause notice of the application to be given to the Collector.

(*2*) Where such an application as aforesaid is made to a [1]High Court the [1]High Court shall cause notice of the application to be given to the [2] Chief Controlling Revenue-authority of the Province.

(*3*) The Collector within the local limits of whose revenue jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of, the record of any case in which application for probate or letters of administration has been made; and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Collector may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and inquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation.

(*4*) If the petitioner does not amend the valuation to the satisfaction of the Collector, the Collector may move the Court before which the application for probate or letters of administration was made, to hold an inquiry into the true value of the property:

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 277 of the Indian Succession Act, 1865,[3] or, as the case may be, by section 98 of the Probate and Administration Act, 1881.[4] X of 1865. V of 1881.

(*5*) The Court, when so moved as aforesaid, shall hold, or cause to be held, an inquiry accordingly, and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

(*6*) For the purposes of any such inquiry, the Court or person authorized

[1] In the North-West Frontier Province, this reference to the High Court is to be construed as referring to the Judicial Commissioner, *see* s. 6 (*1*) (*c*) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, 1903.

[2] In the North-West Frontier Province, for "Chief Controlling Revenue-authority," read "Revenue Commissioner," *see* s. 6 (*1*) (*d*) of Reg. VII of 1901.

[3] General Acts, Vol. I.

[4] General Acts, Vol. III.

by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property. The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.

(*7*) The finding of the Court recorded under sub-section (*5*) shall be final, but shall not bar the entertainment and disposal by the [1] Chief Controlling Revenue-authority of any application under section 19E.

(*8*) The Local Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (*3*).

Payment of court-fee in respect of probates and letters of administration.

"19I. (*1*) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the Third Schedule, and the Court is satisfied that the fee mentioned in No. 11 of the First Schedule, has been paid on such valuation.

(*2*) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (*4*).

Recovery of penalties, etc.

"19J. (*1*) Any excess fee found to be payable on an inquiry held under section 19H, sub-section (*6*), and any penalty or forfeiture under section 19G may, on the certificate of the [1] Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector in any part of British India.

(*2*) The [1] Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 19E or of any court-fee under section 19E in excess of the full court-fee which ought to have been paid.

Sections 6 and 28 not to apply to probates or letters of administration.

"19K. Nothing in section 6 or section 28 shall apply to probates or letters of administration."

Addition of schedule to Act VII, 1870.

VII of 1870.

3. To the Court-fees Act, 1870,[2] the following schedule shall be added, namely:—

[1] In the North-West Frontier Province, for "Chief Controlling Revenue-authority," read "Revenue Commissioner," *see* s. 6 (*1*) (*d*) of the North-West Frontier Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

[2] General Acts, Vol. II.

(*Sec. 3.*)

"SCHEDULE III.

See section 191.

FORM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS MAY BE NECESSARY).

IN THE COURT OF

Re Probate of the Will of (*or Administration of the property and credits of*), *deceased.*

I { solemnly affirm / make oath }

and say that I am the executor (or one of the executors or one of the next of kin) of , deceased, and that I have truly set forth in Annexure A to this affidavit all the property and credits of which the abovenamed deceased died possessed or was entitled to at the time of his death, and which have come, or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of such last-mentioned items, but inclusive of all rents, interest, dividends and increased values since the date of the death of the said deceased are under the value of

ANNEXURE A.

VALUATION OF THE MOVEABLE AND IMMOVEABLE PROPERTY OF , DECEASED.	Rs.	A.	P.
Cash in the house and at the banks, house-hold goods, wearing-apparel, books, plate, jewels, etc.			
(*State estimated value according to best of Executor's or Administrator's belief.*)			
Property in Government securities transferable at the Public Debt Office.			
(*State description and value at the price of the day; also the interest separately, calculating it to the time of making the application.*)			
Immoveable property, consisting of			
(*State description, giving, in the case of houses, the assessed value, if any, and the number of years' assessment the market-value is estimated at, and, in the case of land, the area, the market-value and all rents that have accrued.*)			
Leasehold property			
(*If the deceased held any leases for years determinable, state the number of years' purchase the profit rents are estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application.*)			

	Rs	A.	P.
Property in public companies			
(*State the particulars and the value calculated at the price of the day; also the interest separately, calculating it to the time of making the application.*)			
Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money.			
(*State the amount of the whole; also the interest separately, calculating it to the time of making the application.*)			
Book debts			
(*Other than bad.*)			
Stock in trade			
(*State the estimated value, if any.*)			
Other property not comprised under the foregoing heads . .			
(*State the estimated value, if any.*)			
TOTAL .			
Deduct amount shewn in Annexure B not subject to duty. . .			
NET TOTAL .			

ANNEXURE B.

SCHEDULE OF DEBTS, ETC.	Rs.	A.	P.
Amount of debts due and owing from the deceased, payable by law out of the estate.			
Amount of funeral expenses			
Amount of mortgage incumbrances			
Property held in trust not beneficially or with general power to confer a beneficial interest.			
Other property not subject to duty			
TOTAL .			

VI of 1889. 4. Section 20 of the Probate and Administration Act,[1] 1889, is hereby repealed. Repeal.

[1] General Acts, Vol. V.

ACT No. XII OF 1899.[1]

[*10th March, 1899.*]

An Act to amend the law relating to the forgery of currency-notes and bank-notes.

WHEREAS it is expedient to amend the law relating to the forgery of currency-notes and bank-notes; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Currency-Notes Forgery Act, 1899; and

(*2*) It shall come into force at once.

Addition of new sections after section 489, Act XLV, 1860.

2. After section 489 of the Indian Penal Code[2] the following sections shall be added, namely:— XLV of 1860.

"*Of Currency-Notes and Bank-Notes.*

Counterfeiting currency-notes or bank-notes.

"489A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

"*Explanation.*—For the purposes of this section and of sections 489B, 489C and 489D, the expression "bank-note" means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

Using as genuine forged or counterfeit currency-notes or bank-notes.

"489B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Possession of forged or counterfeit currency-notes or bank-notes.

"489C. Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 847; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 47; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 870; *ibid.*, 1899, Pt. VI, pp. 24, 68 and 84.

This Act has been declared in force in the Santhal Parganas, by s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), *see* the revised edition as modified up to 1st October, 1899.

[2] *See* the revised edition of the Code as modified up to 1st April, 1993.

"489D. Whoever makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine." Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.

V of 1898. XLV of 1860.

3. In the Code of Criminal Procedure, 1898,[1] Schedule II, after the entries relating to section 489 of the Indian Penal Code the following shall be added, namely:— Addition to Schedule II, Act V, 1898.

"*Of Currency-Notes and Bank-Notes.*

489A .	Counterfeiting currency-notes or bank-notes.	May arrest without warrant.	Warrant .	Not bailable.	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
489B .	Using as genuine forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Ditto .	Ditto .	Ditto . . .	Ditto.
489C .	Possession of forged or counterfeit currency-notes or bank-notes.	Ditto .	Ditto .	Bailable .	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
489D .	Making or possessing instruments or materials for forging or counterfeiting currency-notes or bank-notes.	Ditto .	Ditto .	Not bailable.	Ditto .	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto."

ACT No. XIII OF 1899.[2]

[*20th March, 1899.*]

An Act to consolidate and amend the Law relating to Glanders and Farcy.

WHEREAS it is expedient to consolidate and amend the law relating to glanders and farcy; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Glanders and Farcy Act, 1899. Short title

[1] *See* the Code as modified up to 1st April, 1903.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 353; for Report of the Select Committee, *see ibid*, p. 51; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 394; *ibid*, 1899, Pt. VI, pp. 25, 86 and 119.

This Act has been declared in force in the Santhal Parganas, by the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as modified up to 1st October, 1899.

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to British Baluchistan, *see* Gazette of India, 1899, Pt. II, p. 941.

extent and commencement.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definition of "diseased."

2. (*1*) In this Act, unless there is anything repugnant in the subject or context, "diseased"[1] means affected with glanders or farcy or any other dangerous epidemic disease among horses which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf [either generally or in respect of any local area].[2]

(*2*) The provisions of this Act relating to horses shall apply also to asses and mules.

Application of Act to local areas by Local Government.

3. The Local Government may, by notification in the local official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the Province.[3]

Local Government to appoint Inspectors.

4. (*1*) When this Act has been so applied to a local area, the Local Government may, by notification in the local official Gazette, appoint[4] such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of the local area or such portions thereof as it may prescribe, the powers conferred and the duties imposed by this Act on such officers.

(*2*) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.[5] XLV of 1860.

Power of entry and search.

5. Within the local limits for which he is so appointed, any such Inspector as aforesaid may, subject to such rules as the Local Government may make in this behalf, enter and search any field, building or other place for the purpose of ascertaining whether there is therein any horse which is diseased.

Power of seizure.

6. Within such limits as aforesaid, the Inspector may seize any horse which he has reason to believe to be diseased.

Horse to be examined by

7. (*1*) On any such seizure as aforesaid, the Inspector shall cause the

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[1] For notification under this sub-section as amended by Act XI of 1901, as regards the Naini Tal, Dehra Dun and Saharanpur Districts, *see* Gazette of India, 1902, Pt. I, p. 30.

For notification declaring that "diseased" includes affected with "Lymphangitis Epizootica," *see* Gazette of India, 1902, Pt. I, p. 510.

[2] These words were added by the Repealing and Amending Act, 1901 (XI of 1901), s. 3 (*1*), *infra*, p. 169.

[3] The Act has been applied, by notification under section 3, to—
(1) the district of the Santhal Parganas, *see* Calcutta Gazette, 1900, Pt. I, p. 914;
(2) the Patna Municipality, *see ibid*, 1901, Pt. I, p. 1506;
(3) the Murshedabad District, *see ibid*, 1901, Pt. I, p. 1507;
(4) the Gya district, *see* Calcutta Gazette, 1903, Pt. I, p. 21;
(5) the Bombay Presidency, *see* Bombay Government Gazette, 1901, Pt. I, p. 1415;
(6) certain taluks in the Madras District, *see* Fort St. George Gazette, 1901, Pt. I, p. 269.

[4] For instance of notifications under this section as regards—
(1) Bombay, *see* Bombay Government Gazette, 1900, Pt. I, p 2554; *ibid.*, 1901, Pt. I, p. 1448;
(2) the Santhal Parganas, *see* Calcutta Gazette, 1900, Pt. I, p. 915;
(3) Bengal, *see* Calcutta Gazette, 1901, Pt. I, p. 1507; *ibid*, 1903, Pt. I, p. 1278;
(4) United Provinces, *see* N.-W. P. and Oudh Gazette, 1901, Pt. I, p. 81, *ibid*, United Provinces Gazette, 1903, Pt. I, pp. 773 and 802.
(5) British Baluchistan, *see* Gazette of India, 1903, Pt. I, p. 1182.

[5] *See* the revised edition as modified up to 1st April, 1903.

horse seized to be examined as soon as possible by such Veterinary Practitioner as the Local Government may appoint [1] in this behalf:

Veterinary Practitioner.

Provided that, when the Inspector is also a Veterinary Practitioner so appointed, he may make the examination himself.

(*2*) For the purposes of the examination, the Veterinary Practitioner may submit the horse to any test or tests which the Local Government may prescribe.

Horse to be destroyed if found diseased: otherwise restored.

8. (*1*) If the Veterinary Practitioner certifies in writing that the horse is diseased, the Inspector shall cause the same to be immediately destroyed:

Provided that, in the case of any disease other than glanders or farcy, horses certified to be diseased as aforesaid may, subject to any rules which the Local Government may make in this behalf, be either destroyed or otherwise treated or dealt with as the Veterinary Practitioner may deem necessary.

(*2*) If, after completing the examination, the Veterinary Practitioner does not certify that the horse is diseased, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

When horse diseased, place where it has been to be disinfected, etc.

9. (*1*) When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of the building, shed, place or lines, or to the person in charge thereof, directing him to have the same disinfected and the internal fittings thereof or such other things found therein or near thereto as the Local Government may by rule prescribe, destroyed.

(*2*) On the failure or neglect of such owner or other person as aforesaid to comply with the notice within a reasonable time, the Inspector shall cause the building, shed, place or lines to be disinfected and the fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from the owner or other person as if it were a fine.

Owner or person in charge of diseased horse to give notice.

10. The owner or any person in charge of a diseased horse shall give immediate information of the horse being diseased to the Inspector or to such authority as the Local Government may appoint [2] in this behalf

Prohibition against removal, without license, of horse which has been with diseased horse.

11. No person in charge of any horse which has been in the same field, building or place as, or in contact with, a diseased horse, shall remove such horse except in good faith for the purpose of preventing infection, or under a license to be granted by the Inspector and subject to the conditions of the license.

[1] For notification appointing Veterinary Practitioners for—
(1) the Santhal Parganas, *see* Calcutta Gazette, 1900, Pt. I, p. 915;
(2) the Bombay Presidency, *see* Bombay Government Gazette, 1901, Pt. I, p. 1418.
(3) United Provinces, *see* N. P. Gazette, 1903, Pt. I, p. 802.

[2] For officers appointed under this section for the Bombay Presidency, *see* Bombay Government Gazette, 1900, Pt. I, p. 2551.

Vexatious entries, searches and seizures.

12. (*1*) Whoever, being an Inspector appointed under this Act, vexatiously and unnecessarily enters or searches any field, building or other place, or seizes or detains any horse on the pretence that it is diseased, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(*2*) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under section 9, or for removing horse contrary to section 11.

13. Whoever refuses or neglects to comply with any notice issued by the Inspector under section 9, or removes any horse in contravention of section 11, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Power to make rules.

14. (*1*) The Local Government may make rules[1] to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules as aforesaid may—

(*a*) regulate entries, searches and seizures by Inspectors under this Act;

(*b*) regulate the use of tests and the isolation of horses subjected thereto, and provide for recovering the expense of detaining, isolating and testing horses from the owners or persons in charge thereof as if it were a fine;

(*c*) regulate the destruction or treatment, as the case may be, of horses certified under section 8 to be diseased, and the disposal of the carcases of diseased horses;

(*d*) regulate the disinfecting of buildings and places in which diseased horses have been, and prescribe what things found therein or near thereto shall be destroyed; and

(*e*) regulate the grant of licenses under section 11 and the conditions on which those licenses shall be granted.

(*3*) All rules under this section shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

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[1] For rules made by the Government of—
(1) the United Provinces, *see* North-Western Provinces and Oudh Gazette, 1900, Pt. I, p. 155 *see* also, as regards "surra," United Provinces Gazette, 1902, Pt. I, pp. 254 and 299;
(2) Bengal, *see* Calcutta Gazette, 1900, Pt. I, p. 915;
(3) Bombay City and Harbour, *see* Bombay Government Gazette, 1899, Pt. I, pp. 1799 and 1802, and *ibid*, 1902, Pt. I, p. 1996; *ibid*, 1903, Pt. I, p. 119;
" Presidency proper, *see* Bombay Government Gazette, 1901, Pt. I, p. 1415;
(4) Punjab, *see* Punjab Gazette, 1901, Pt. I, p. 65;
(5) Burma, *see* Burma Gazette, 1902, Pt. I, p. 291.

(*4*) In making any rule under this section, the Local Government may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Appointment of same person to be both Inspector and Veterinary Practitioner.

15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder.

Protection to persons acting under Act.

16. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Act.

Repeal.

17. The enactments mentioned in the schedule are hereby repealed to the extent specified in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 17.*)

Year.	No.	Short Title.	Extent of Repeal.
1879	XX	The Glanders and Farcy Act, 1879 . .	The whole Act.
1891	XII	The Repealing and Amending Act, 1891 .	So much as relates to Act XX of 1879.
1896	XV	The Glanders and Farcy Act (1879) Amendment Act, 1896.	The whole Act.
1897	XIV	The Indian Short Titles Act, 1897 . .	So much as relates to Act XV of 1896.

ACT No. XIV OF 1899.[1]

[*20th March, 1899.*]

An Act to further amend the Indian Tariff Act, 1894.

WHEREAS it is expedient to further amend the Indian Tariff Act, 1894; VIII of 1894.
It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Tariff Amendment Act, 1899; and

(*2*) It shall come into force at once.

Addition of new section 8A after section 8, Act VIII, 1894.

2. After section 8 of the Indian Tariff Act, 1894,[2] the following section VIII of 1894.
shall be added, namely:—

Additional import-duty on bounty fed articles.

"8A. (*1*) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the exportation therefrom of any article and the article, is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into British India, whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose[3] an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

"(*2*) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules[4] for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (*1*)."

Act not to apply in certain cases.

3. This Act shall not apply to any imported article the bill of lading for which was signed and given before the commencement of this Act.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 55; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 86 and 119.

The Act has been declared in force in the Santhal Parganas by s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as modified up to the 1st October, 1899.

[2] General Acts, Vol. VI.

[3] For notification imposing such duty, *see* No. 1327 S. R., dated 20th March, 1899, Gazette of India, 1899, Pt. I, p 190; No. 3559 S. R., dated 3rd August, 1899, *see ibid*, Pt. I, p. 721; No. 2635 S. R., dated 9th June, 1899, *see ibid*, 1899, Pt. I, p. 461; also *see ibid*, pp. 704, 869, 1067; *ibid*, 1900, Pt. I, pp. 293 and 665; *ibid*, 1901, Pt. I, pp. 298 and 399; *ibid*, 1902, Pt. I, p. 877. As to the refund of excess duty, *see* Gazette of India, 1900, Pt. I, p. 526.

[4] For rules under this sub-section for the identification of sugar chargeable with additional or special duty and for the assessment and collection of the duty, *see* notification No. 4439 S. R., dated the 14th August, 1902, Gazette of India, 1902, Pt. I, p. 696.

ACT No. XVII OF 1899.[1]

[*14th July, 1899.*]

An Act further to amend the Indian Registration Act, 1877.

III of 1877. WHEREAS it is expedient further to amend the Indian Registration Act, 1877 [2]; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Registration (Amendment) Act, 1899; and

(*2*) It shall come into force at once.

III of 1877. 2. Section 22 of the Indian Registration Act, 1877,[2] is hereby repealed, and the following section is substituted therefor, namely:—

Repeal of section 22, Act III, 1877, and substitution of new section.

Description of houses and land by reference to Government maps or surveys.

"22. (*1*) Where it is, in the opinion of the Local Government, practicable to describe houses, not being houses in towns, and lands by reference to a Government map or survey, the Local Government may, by rule, require that such houses and lands as aforesaid shall, for the purposes of section 21, be so described.

"(*2*) Save as otherwise provided by any rule made under sub-section (*1*), failure to comply with the provisions of section 21, clause (*b*), shall not disentitle a document to be registered if the description of the property, to which it relates, is sufficient to identify that property."

ACT No. XVIII OF 1899.[3]

[*14th July, 1899.*]

An Act to amend the Land Improvement Loans Act, 1883.

XIX of 1883. WHEREAS it is expedient to amend the Land Improvement Loans Act, 1883 [4]; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Land Improvement Loans (Amendment) Act, 1899; and

(*2*) It shall come into force at once.

XIX of 1883. 2. In section 6, sub-section (*1*), of the Land Improvement Loans Act, 1883, for the words "from the date of the actual advance of the last instalment", the words "from the date of the advance of the last instalment

Amendment, with retrospective effect, of section 6, Act XIX, 1883.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 71; for Proceedings in Council, *see ibid.*, Pt. VI, pp. 185 and 188.

The Act has been extended to the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), as modified up to 1st October, 1899, *see* Calcutta Gazette, 1901, Pt. I, p. 673.

[2] *See* the revised edition of the Act as modified up to 1st April, 1900.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 77; for Proceedings in Council, *see ibid.*, Pt. VI, pp. 186 and 188.

The Act has been extended to the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), as modified up to 1st October, 1899, *see* Calcutta Gazette, 1901, Pt. I, p. 673.

[4] General Acts, Vol. IV.

actually paid" shall be substituted and shall be deemed to have been substituted with effect from the commencement of the said Act.

ACT No. XIX OF 1899.[1]

[*28th July, 1899.*]

An Act to provide for the conversion into British Indian currency of sums expressed in British currency in the Army Act.

WHEREAS it is provided by section 169 of the Army Act[2] that the Governor General in Council may declare the amount of the local currency which is to be deemed, for the purposes of the said Act, to be equivalent to any sum of British currency mentioned therein; 44 & 45 Vict., c. 58.

And whereas it is expedient, in exercise of the power so conferred, to provide for the conversion into British Indian currency of sums expressed in British currency in the said Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Currency Conversion (Army * *[3]) Act, 1899.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Rate of exchange fixed for calculating the equivalent in British Indian currency of sums of British currency mentioned in the Army Act.

2.[4] For the purposes of the Army Act or of any similar Act for the time being in force, fifteen rupees of British Indian currency shall be deemed to be the equivalent of one pound of British currency, and any sum of British currency mentioned in the said Act or in any similar Act as aforesaid shall be deemed to be the equivalent of a sum of British Indian currency calculated at that rate of exchange. 44 & 45 Vict., c. 58.

3. [*Duration of Act.*] *Rep. by Act VII of 1900, s. 2.*

ACT No. XX OF 1899.[5]

[*1st September, 1899.*]

An Act further to amend the Presidency Banks Act, 1876.

WHEREAS it is expedient further to amend the Presidency Banks Act,[6] 1876; It is hereby enacted as follows:— XI of 1876.

Short title and commencement.

1. (*1*) This Act may be called the Presidency Banks Act, 1899; and

(*2*) It shall come into force at once.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 85; for Proceedings in Council, *see ibid*, Pt. VI, pp. 189 and 191.

[2] Collection of Statutes relating to India, Vol. I, p. 614.

[3] The word "Annual" was repealed by Act VII of 1900, s. 2, *infra*, p. 189.

[4] This section was substituted by Act VII of 1900, s. 1.

[5] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 116; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 196 and 199.

[6] General Acts, Vol. III.

XI of 1876. V of 1879. 2. To section 36, clause (*a*) sub-clause (*4*), of the Presidency Banks Act, 1876, as amended by section 4 of the Presidency Banks Act, 1879, the following shall be added, namely :— Further amendment of section 36, Act XI, 1876.

Bombay Act IV of 1898. "or the Trustees for the improvement of the City of Bombay under the authority of the City of Bombay Improvement Act, 1898."

ACT No. XXII OF 1899.[1]

[*15th September, 1899.*]

An Act further to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882.

XXIII of 1870. XX of 1882. WHEREAS it is expedient further to amend the Indian Coinage Act, 1870,[2] and the Indian Paper Currency Act, 1882[3]; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Indian Coinage and Paper Currency Act, 1899; and Short title and commencement.

(*2*) It shall come into force at once.

XXIII of 1870. 2. For section 12 of the Indian Coinage Act,[2] 1870, the following section shall be substituted, namely :— Substitution of new section for section 12, Act XXIII, 1870

"12. Gold coins, whether coined at Her Majesty's Royal Mint in England or at any Mint established in pursuance of a proclamation of Her Majesty as a branch of Her Majesty's Royal Mint, shall be a legal tender in payment or on account at the rate of fifteen rupees for one sovereign: Gold coins a legal tender.

"Provided that such coins have not been called in by any Proclamation made in pursuance of the Coinage Act, 1870, or have not lost weight so as to be of less weight than that for the time being prescribed for like coins by or under the said Statute as the least current weight." 33 & 34 Vict., c. 10.

XX of 1882. 3. To section 11, clause (*a*), of the Indian Paper Currency Act, 1882,[3] the following words and figures shall be added, namely :— Addition to section 11, clause (*a*), Act XX, 1882.

XXIII of 1870. "or in gold coin which is legal tender under the Indian Coinage Act, 1870."[2]

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 119; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 197, 206 and 212.

This Act has been extended to the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), as modified up to 1st October, 1899, *see* Calcutta Gazette, 1901, Pt. I, p. 673.

[2] General Acts, Vol. II.

[3] General Acts, Vol. IV.

ACT No. XXIII OF 1899.[1]

[*27th September, 1899.*]

An Act to provide for the Incorporation of Kirk Sessions of the Church of Scotland in British India.

WHEREAS there are in British India Kirk Sessions of the Church of Scotland which have been duly constituted to be Church Courts for ecclesiastical purposes in pursuance of Acts of the General Assembly of the Church of Scotland;

And whereas it is expedient that such Kirk Sessions and any others which may hereafter be so constituted, should be incorporated with the powers hereinafter provided;—

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Church of Scotland Kirk Sessions Act, 1899;

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Scotch Kirk Sessions to be bodies corporate.

2. (*1*) Every Kirk Session which has been, or may hereafter be, duly constituted to be a Church Court for ecclesiastical purposes in pursuance of an Act of the General Assembly of the Church of Scotland, is hereby declared to be, and the same shall be, a body corporate having perpetual succession and a common seal.

(*2*) A notification by the Governor General in Council in the Gazette of India that a Kirk Session has been duly constituted[2] in pursuance of an Act of the General Assembly of the Church of Scotland shall be conclusive proof that it has been so constituted.

Power to hold and dispose of property.

3. (*1*) Every Kirk Session constituted as aforesaid shall, as a body corporate, have power to acquire and hold any property which has been, or may hereafter be, vested in it for the purposes of the Congregation for which it has been, or may hereafter be, constituted, or of any trust which may have been, or may hereafter be, accepted by it, to transfer the same, to contract and to do all other things necessary for, or incidental to, the purposes of its constitution or of any such trust as aforesaid.

(*2*) The signature of the Moderator and Treasurer or Session-clerk for the time being of a Kirk Session constituted as aforesaid shall, if affixed on behalf and by order of the Kirk Session, be sufficient for all purposes for which the signature of the Kirk Session is required.

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1 For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 79; for Proceedings in Council, *see ibid.* Pt. VI, pp. 188, 212 and 213.

2 For Notification declaring the Kirk Sessions at Calcutta, Madras, Bombay and Allahabad to be duly constituted, *see* Gazette of India, 1900, Pt. I, p. 484.

ACT No. I OF 1900.[1]

[*19th January, 1900.*]

An Act to amend the Indian Articles of War.

V of 1869. WHEREAS it is expedient to amend the Indian Articles of War[2]; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Articles of War Amendment Act, 1900; and

(*2*) It shall come into force at once.

V of 1869. Substitution of new sub-articles for sub-article (*2*) of article 4, Act V, 1869.

2. For sub-article (*2*) of article 4 of the said Indian Articles of War, the following sub-articles shall be substituted, namely:—

"(*2*) Unattested recruits who, in the opinion of their Commanding Officer, are not likely to make good soldiers, and persons attested under these Articles who are serving in a cavalry corps and who have, in the opinion of their Commanding Officer, failed to become good riders, shall be liable to discharge from the service by order of the Commanding Officer of the corps or department to which they may belong:

"Provided that, in the case of persons attested under these Articles, this liability shall cease on the completion of their third year of service.

"(*3*) Every person so dismissed or discharged shall forfeit all claim to pension."

ACT No. II OF 1900.[3]

[*2nd February, 1900.*]

An Act to amend the Transfer of Property Act, 1882.

IV of 1882. WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Transfer of Property Act, 1900; and

(*2*) It shall come into force at once.

IV of 1882. Addition to section 3, Act IV, 1882.

2. In section 3 of the Transfer of Property Act, 1882,[4] after the definition of "attached to the earth" the following shall be inserted, namely:—

"'Actionable claim' means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 179; for Proceedings in Council, *see ibid*, 1899, Pt. VI, p. 242; and *ibid*, 1900, Pt. VI, p. 10.

The Act has been extended to the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872) as modified up to 1st October, 1899, *see* Calcutta Gazette, 1901, Pt. I, p. 673.

[2] General Acts, Vol. II.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 90; for Report of the Select Committee, *see ibid*, 1900, p. 17; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 190 and 242, *ibid*, 1900, p. 19.

[4] General Acts, Vol. IV.

of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent."

Amendment of section 6, Act IV, 1882.

3. In section 6 of the same Act—

(i) in clause (*e*) the words "for compensation for a fraud or for harm illegally caused" shall be omitted; and

(ii) in clause (*h*) the words "for an illegal purpose" shall be omitted and instead thereof the words "for an unlawful object or consideration within the meaning of section 23 of the Indian Contract Act, 1872,[1]" shall be inserted. IX of 1872.

Substitution of new Chapter for Chapter VIII, Act IV, 1882.

4. For Chapter VIII of the same Act, the following Chapter shall be substituted, namely:—

"CHAPTER VIII.

"OF TRANSFERS OF ACTIONABLE CLAIMS.

Transfer of actionable claim.

"130. (*1*) The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not:

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or enforce such debt or other actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(*2*) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

Exception.—Nothing in this section applies to the transfer of a marine or fire policy of insurance.

Illustrations.

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, not having received notice of the transfer, as prescribed in section 131, pays B. The payment is valid, and C cannot sue A for the debt.

[1] *See* the revised edition of the Act as modified up to 30th June, 1901.

(ii) A effects a policy on his own life with an Insurance Company and assigns it to a Bank for securing the payment of an existing or future debt. If A dies, the Bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor, subject to the proviso in sub-section (*1*) of section 130 and to the provisions of section 132.

Notice to be in writing, signed.

"131. Every notice of transfer of an actionable claim shall be in writing, signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee.

Liability of transferee of actionable claim.

"132. The transferee of an actionable claim shall take it subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

Illustrations.

(i) A transfers to C a debt due to him by B, A being then indebted to B. C sues B for the debt due by B to A. In such suit B is entitled to set off the debt due by A to him, although C was unaware of it at the date of such transfer.

(ii) A executed a bond in favour of B under circumstances entitling the former to have it delivered up and cancelled. B assigns the bond to C for value and without notice of such circumstances. C cannot enforce the bond against A.

Warranty of solvency of debtor.

"133. Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

Mortgaged debt.

"134. Where a debt is transferred for the purpose of securing an existing or future debt, the debt so transferred, if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery: secondly, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor or other person entitled to receive the same.

Assignment of rights under marine or fire policy of insurance.

"135. Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Incapacity of officers connected with Courts Justice.

"136. No Judge, legal practitioner, or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive, any share of, or interest in, any actionable claim, and no Court of Justice shall enforce, at his instance or at the instance of any person claiming by or through him, any actionable claim so dealt with by him as aforesaid.

Saving of negotiable instruments, etc.

"137. Nothing in the foregoing sections of this Chapter applies to stocks, shares or debentures or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods.

"*Explanation.*—The expression 'mercantile document of title to goods' includes a bill of lading, dock-warrant, warehouse-keeper's certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented."

Repeal.

5. So much of the Policies of Insurance (Marine and Fire) Assignment Act, 1866, as is unrepealed, and so much of the Indian Short Titles Act, 1897,[1] as relates thereto, are hereby repealed. V of 1866. XIV of 1897.

THE PRISONERS ACT, 1900 (III OF 1900).

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[1] General Acts, Vol. VI.

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ACT No. III OF 1900.[1]

[*2nd February, 1900.*]

An Act to consolidate the law relating to Prisoners confined by order of a Court.

WHEREAS it is expedient to consolidate the law relating to prisoners confined by order of a Court; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Prisoners Act, 1900.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Court" includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(*b*) "prison" includes any place which has been declared by the Local Government, by general or special order, to be a subsidiary jail.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 101; for Report of the Select Committee, *see ibid*, 1900, p. 23; for Proceedings in Council, *see ibid*, 1899, Pt. VI, pp. 102 and 242; *ibid*, 1900, p. 21.

The Act has been declared in force in the district of Angul, under s. 5 of the Angul Districts Regulation, 1894 (I of 1894), Calcutta Gazette, 1901, Pt. I, p. 885.

PART II.

GENERAL.

Officers in charge of prisons to detain persons duly committed to their custody.

3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

Officers in charge of prisons to return writs, etc., after execution or discharge.

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

PART III.

PRISONERS IN THE PRESIDENCY-TOWNS.

Warrants, etc., to be directed to Police-officers.

5. Every writ or warrant for the arrest of any person issued by the High Court in the exercise of its ordinary, extraordinary or other criminal jurisdiction shall be directed to and executed by a Police-officer within the local limits of such jurisdiction.

Power for Local Governments to appoint Superintendents of Presidency prisons.

6. The Local Government may appoint officers who shall have authority to receive and detain prisoners committed to their custody under this Part.

Explanation.—Any officer so appointed, by whatever designation he may be styled, is hereinafter referred to as "the Superintendent."

Delivery of persons sentenced to imprisonment or death by High Court.

7. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause him to be delivered to the Superintendent together with its warrant, and such warrant shall be executed by the Superintendent and returned by him to the High Court when executed.

Delivery of persons sentenced to transportation or penal servitude by High Court.

8. Where any person is sentenced by the High Court in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause him to be delivered for intermediate custody to the Superintendent, and the transportation or penal servitude of such person shall be deemed to commence from such delivery.

9. Where any person is committed by the High Court, whether in execution of a decree or for contempt of Court or for any other cause, the Court shall cause him to be delivered to the Superintendent, together with its warrant of commitment.

Delivery of persons committed by High Court in execution of a decree or for contempt.

10. Where any person is sentenced by a Presidency Magistrate to imprisonment, or is committed to prison for failure to find security to keep the peace or to be of good behaviour, the Magistrate shall cause him to be delivered to the Superintendent, together with his warrant.

Delivery of persons sentenced by Presidency Magistrates.

11. Every person committed by a Magistrate, Justice of the Peace, or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction shall be delivered to the Superintendent, together with a warrant of commitment, directing the Superintendent to produce such person before the Court for trial; and the Superintendent shall, as soon as practicable, cause such person to be taken before the Court at a criminal session thereof, together with the warrant of commitment, in order that he may be dealt with according to law.

Delivery of persons committed for trial by High Court.

12. The High Court may, pending the hearing, under section 350 of the Code of Civil Procedure,[1] of any application for a declaration of insolvency, cause the judgment-debtor concerned to be delivered to the Superintendent, subject to the provisions as to release on security of section 349 of the said Code, and the Superintendent shall detain the said judgment-debtor in safe custody until he is re-delivered to an officer of the High Court for the purpose of being taken before it in pursuance of its order, or until he is released in due course of law.

XIV of 1882.

Custody pending hearing by High Court under section 350 of the Code of Civil Procedure of application for insolvency.

13. (*1*) Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Civil Court established in a Presidency-town under any law or enactment for the time being in force, or in pursuance of a warrant issued under section 5, shall be brought without delay before the Court by which, or by a Judge of which, the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court, or a Judge thereof, is then sitting for the exercise of original jurisdiction.

Delivery of persons arrested in pursuance of warrant of High Court or Civil Court in Presidency-town.

(*2*) If the said Court, or a Judge thereof, is not then sitting for the exercise of original jurisdiction, such person arrested as aforesaid shall, unless a Judge of the said Court otherwise directs, be delivered to the Superintendent for intermediate custody, and shall be brought before the said Court, or a

[1] For Act XIV of 1882, *see* the edition as modified up to 1st December, 1899, published by the Legislative Department.

Judge thereof, at the next sitting of the said Court, or of a Judge thereof, for the exercise of original jurisdiction in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

PART IV.

PRISONERS OUTSIDE THE PRESIDENCY-TOWNS.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

14. In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Power for officers in charge of prisons to give effect to sentences of certain Courts.

15. (*1*) Officers in charge of prisons outside the Presidency-towns may give effect to any sentence or order or warrant for the detention of any person passed or issued—

(*a*) by any Court or tribunal acting, whether within or without British India, under the general or special authority of Her Majesty, or of the Governor General in Council, or of any Local Government; or

(*b*) by any Court or tribunal in the territories of any Native Prince or State in India—

(i) if the presiding Judge, or if the Court or tribunal consists of two or more Judges, at least one of the Judges, is an officer of the British Government authorized to sit as such Judge by the Native Prince or State or by the Governor General in Council, and

(ii) if the reception, detention or imprisonment in British India or in any province of British India of persons sentenced by any such Court or tribunal has been authorized by general or special order by the Governor General in Council or the Local Government, as the case may be; or

(*c*) by any other Court or tribunal in the territories of any Native Prince or State in India, with the previous sanction of the Governor General in Council or of the Local Government in the case of each such sentence, order or warrant.

(*2*) Where a Court or tribunal of such a Native Prince or State has passed a sentence which cannot be executed without the concurrence of an officer of the British Government, and such sentence has been considered on the merits and confirmed by any such officer specially authorized in that

behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of the Governor General in Council.

Warrant of officer of such Court to be sufficient authority.

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.

17. (*1*) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the Local Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(*2*) Pending a reference made under sub-section (*1*), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

Exe British India of certain capital sentences not ordinarily executable there.

18. (*1*) Where a British Court[1] exercising, in or with respect to territory beyond the limits of British India, jurisdiction which the Governor General in Council has in such territory,—

(*a*) has sentenced any person to death ; and

(*b*) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in British India, has issued its warrant for the execution of such sentence to the officer in charge of a prison in British India,

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.[2]

V of 1898.

(*2*) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid shall be such as the Governor General in Council or a Local Government authorized by the Governor General in Council in this behalf may, by general or special order, direct.[1]

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[1] For notification authorizing certain such British Courts to send their warrants to jails in British India which may be notified by the Governor General in Council, *see* Western India Volume of British Enactments in force in Native States, Ed. 1900, p. 463, and for notification appointing certain jails in British India to which such Courts may send their warrants, for the execution of capital sentences, *see ibid*, p. 464.

[2] *See* the revised edition of the Act as modified up to 1st April, 1903.

(*3*) A Court shall be deemed to be a British Court for the purposes of this section if the presiding Judge, or if the Court consist of two or more Judges, at least one of the Judges, is an officer of the British Government authorized to act as such Judge by any Native Prince or State in India or by the Governor General in Council:

Provided that every warrant issued under this sub-section by any such tribunal shall, if the tribunal consists of more than one Judge, be signed by a Judge who is an officer of the British Government authorized as aforesaid.

PART V.

PERSONS UNDER SENTENCE OF PENAL SERVITUDE.

Persons under sentence of penal servitude how to be dealt with.

19. (*1*) Every person under sentence of penal servitude may be confined in such prison within British India as the Governor General in Council, by general order, directs, and may, while so confined, be kept to hard labour and, until he can conveniently be removed to such prison, be imprisoned, with or without hard labour, and dealt with in all other respects as persons under sentence of rigorous imprisonment may, for the time being, by law be dealt with.

(*2*) The time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Enactments respecting persons under sentence of transportation or imprisonment with hard labour applied to persons under sentence of penal servitude.

20. Every enactment now in force in British India with respect to persons under sentence of transportation, or under sentence of imprisonment with hard labour, shall, so far as is consistent with this Act, be construed to apply to persons under sentence of penal servitude.

Power to grant license to person sentenced to penal servitude.

21. (*1*) The Governor General in Council may grant to any person under sentence of penal servitude a license to be at large within British India or in such part thereof as is in such license expressed, during such portion of his term of penal servitude and upon such conditions as the Governor General in Council may think fit.

(*2*) The Governor General in Council may revoke or alter any license granted under sub-section (*1*).

Licensee to be allowed to go at large.

22. So long as any license granted under section 21, sub-section (*1*), continues in force and unrevoked, the licensee shall not be liable to im-

prisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of the license.

Apprehension of convict where license revoked.

23. In case of the revocation of any such license as aforesaid, any Secretary to the Government of India may, by order in writing, signify to any Justice of the Peace or Magistrate that the license has been revoked, and require him to issue a warrant for the arrest of the licensee, and such Justice or Magistrate shall issue his warrant accordingly.

Execution of warrant.

24. A warrant issued under section 23 may be executed by any officer to whom it is directed or delivered for that purpose in any part of British India, and shall have the same force in any place within British India as if it had been originally issued or subsequently endorsed by the Justice of the Peace or Magistrate or other authority having jurisdiction in the place where it is executed.

Licensee when arrested to be brought up for recommitment.

25. (*1*) When the licensee, for whose arrest a warrant has been issued under section 23, is arrested thereunder, he shall be brought, as soon as conveniently may be, before the Justice or Magistrate by whom the warrant was issued, or before some other Justice or Magistrate of the same place, or before a Justice or Magistrate having jurisdiction in the district in which the licensee has been arrested.

(*2*) Such Justice or Magistrate as aforesaid shall thereupon make out a warrant under his hand and seal for the recommitment of the licensee to the prison from which he was released under the license.

Recommitment.

26. When a warrant has been issued under section 25, sub-section (*2*), the licensee shall be recommitted accordingly, and shall thereupon be liable to be kept in penal servitude for such further term as, with the time during which he may have been imprisoned under the original sentence and the time during which he may have been at large under an unrevoked license, is equal to the term mentioned in the original sentence.

Penalty for breach of condition of the license.

27. If a license is granted under section 21 upon any condition specified therein, and the licensee—

(*a*) violates any condition so specified; or

(*b*) goes beyond the limits so specified; or

(*c*) knowing of the revocation of the license, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid arrest;

he shall be liable upon conviction to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence.

PART VI.

REMOVAL OF PRISONERS.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

28. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Removal of prisoners.

29.[1] (*1*) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison—

(*a*) under sentence of death, or

(*b*) under, or in lieu of, a sentence of imprisonment or transportation, or

(*c*) in default of payment of a fine, or

(*d*) in default of giving security for keeping the peace or for maintaining good behaviour,

to any other prison in British India.

(*2*) The Local Government, and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.

Lunatic prisoners how to be dealt with.

30. (*1*) Where it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the Local Government may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(*2*) Where it appears to the Local Government that the prisoner has become of sound mind, the Local Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the Province, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

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[1] This section was substituted for the original section, by the Repealing and Amending Act, 1903 (I of 1903), s. 3 and Schedule II.

(*Part VI.—Removal of Prisoners. Sec. 30. Part VII.—Persons under Sentence of Transportation. Sec. 32. Part VIII.—Discharge of Prisoners. Sec. 33.*)

XXXVI of 1858.

(*3*) The provisions of section 9 of the Lunatic Asylums Act, 1858,[1] shall apply to every person confined in a lunatic asylum under sub-section (*1*) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

(*4*) In any case in which a Local Government is competent under sub-section (*1*) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the Governor General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

31. [*Removal of prisoners from territories under one Local Government to territories under another.*] *Rep. by the Repealing and Amending Act, 1903 (I of 1903).*

PART VII.

Persons under Sentence of Transportation.

Appointment of places for confinement of persons under sentence of transportation and removal thereto.

32. The Governor General in Council may appoint places within British India to which persons under sentence of transportation shall be sent; and the Local Government, or some officer duly authorized in this behalf by the Local Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

PART VIII.

Discharge of Prisoners.

24 & 25 Vict., c. 104.

Release, on recognizance, by order of High Court, of prisoner recommended for pardon.

33. Any Court established under the Indian High Courts Act, 1861,[2] may, in any case in which it has recommended to Her Majesty the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

[1] General Acts, Vol. I.
[2] Collection of Statutes relating to India, Vol. I, Ed. 1899.

PART IX.

PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE.

Attendance of Prisoners in Court.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.

34. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Power for Civil Courts to require appearance of prisoner to give evidence.

35. Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

District Judge in certain cases to countersign orders made under section 35.

36. (*1*) Where an order under section 35 is made in any civil matter pending—

(*a*) in a Court subordinate to the District Judge, or

(*b*) in a Court of Small Causes outside a Presidency-town,

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

(i) the District Judge to which the Court is subordinate, or

(ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(*2*) Every order submitted to the District Judge under sub-section (*1*) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.

37. Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, or if a charge of an offence against such person is made or pending

make an order in the form set forth in the first or second schedule as the case may be, directed to the officer in charge of the prison:

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to, and countersigned by, the District Magistrate to whose Court such Criminal Court is subordinate or within the local limits of whose jurisdiction such Criminal Court is situated.

Order to be transmitted through Magistrate of the district or sub-division in which person is confined.

38. Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Procedure where removal is desired of person confined in Presidency-town or more than one hundred miles from place where evidence is required

39. (*1*) Where a person is confined in a prison within a Presidency-town, or in a prison more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required, shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the High Court, and the High Court may, if it thinks fit, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

(*2*) The High Court making an order under sub-section (*1*) shall send it to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person named therein is confined, or, in the case of a person confined in a prison within a Presidency-town, to the Commissioner of Police, and such Magistrate or Commissioner shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Persons confined beyond limits of appellate jurisdiction of High Court.

40. Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of answering a charge of an offence or of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the Local Government of the territories within which the prison is situate, and the Local Government may, if it thinks fit, direct that the person be so removed, subject to such rules regulating the escort of prisoners as the Governor General in Council may prescribe.

Prisoner to be brought up.

41. Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in or near the Court until he has been examined or until the Judge or presiding officer of the Court authorizes him to be taken back to the prison in which he was confined.

Power to Government to exempt certain prisoners from operation of this Part.

42. The Governor General in Council or the Local Government may, by notification in the Gazette of India or the local official Gazette, as the case may be, [1] direct that any person or any class of persons shall not be removed from the prison in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 44 to 46, shall not apply to such person or class of persons.

Officer in charge of prison when to abstain from carrying out orders.

43. In any of the following cases, that is to say,—

(*a*) where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the prison is situate and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or

(*b*) where the person named in any such order is under committal for trial; or

(*c*) where the person named in any such order is under a remand pending trial or pending a preliminary investigation; or

(*d*) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined;

the officer in charge of the prison shall abstain from carrying out the

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[1] For rules made under this section in conjunction with s. 51, by—
(*1*) the Government of Bengal as to escort of prisoners and the cost of such escort, *see* Calcutta Gazette, 1900, Pt. I, p. 1152;
(*2*) the Chief Commissioner of Assam, *see* Assam Gazette, 1900, Pt. II, p. 769.
(*3*) the Government of the Punjab as to the removal of State Prisoners, *see* Punjab Gazette, 1901, Pt. I, p. 19.

order, and shall send to the Court from which the order has been issued, a statement of the reason for so abstaining:

Provided that such officer as aforesaid shall not so abstain where—

(i) the order has been made under section 37; and

(ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity, unfit to be removed; and

(iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

Commissions for Examination of Prisoners.

Commissions for examination of prisoners.

44. In any of the following cases, that is to say,—

(*a*) where it appears to any Civil Court that the evidence of a person confined in any prison within the local limits of the appellate jurisdiction of such Court, if it is a High Court, or if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who, for any of the causes mentioned in section 42 or section 43, cannot be removed, is material in any matter pending before it; or

(*b*) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter; or

(*c*) where the District Judge declines, under section 36, to countersign an order for removal;

the Court may, if it thinks fit, issue a commission, under the provisions of the [1] Code of Civil Procedure, for the examination of the person in the prison in which he is confined.

XIV of 1882.

Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court.

45. Where it appears to a High Court that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court may, if it thinks fit, issue a commission, under the provisions of the [1] Code of Civil Procedure, for the examination of the person in the prison in which he is confined.

XIV of 1882.

[1] General Acts, Vol. IV, *see* also the edition of the Act as modified up to 1st December, 1899.

Commission how to be directed.

46. Every commission for the examination of a person issued under section 44 or section 45 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situate, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

Service of Process on Prisoners.

Process how served on prisoners.

47. When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof.

Process served to be transmitted at prisoner's request.

48. (*1*) Every officer in charge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

(*2*) Such certificate as aforesaid shall be *primâ facie* evidence of the service of the process, and, if the person to whom the process is directed, requests that the copy shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

Miscellaneous.

Application of Part in certain cases.

49. (*1*) For the purposes of this Part, the Courts of Small Causes established in the Presidency-towns and the Courts of Presidency Magistrates shall be deemed to be subordinate to the High Court of Judicature at Fort William, Madras or Bombay, as the case may be.

* * * * * * [1]

Deposit of costs.

50. No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court:

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient

[1] Sub-sections (*2*) and (*3*) were repealed by the Lower Burma Courts Act, 1900 (VI of 1900), s. 48.

means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the Government from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the [1] Code of Civil Procedure.

XIV of 1882.

51. (*1*) The Local Government, and in cases arising under section 40, the Governor General in Council, may make rules [2]—

Power to make rules under this Part.

(*a*) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance;

(*b*) for regulating the amount to be allowed for the costs and charges of such escort; and

(*c*) for the guidance of officers in all other matters connected with the enforcement of this Part.

(*2*) All rules made under sub-section (*1*) shall be published in the local official Gazette or the Gazette of India, as the case may be, and shall, from the date of such publication, have the same force as if enacted by this Act.

52. The Local Government may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.[3]

Power to declare who shall be deemed officer in charge of prison.

53. The enactments mentioned in the Third Schedule are hereby repealed to the extent specified in the last column thereof.

Repeals.

THE FIRST SCHEDULE.

(*See sections 35 and 37.*)

Court of .

To the officer in charge of the (*state name of prison*).
You are hereby required to produce , now a prisoner in
, under safe and sure conduct before the Court of at

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[1] General Acts, Vol. IV. See also the revised edition of the Act as modified up to 1st December, 1899.

[2] For rules made by—
(*1*) the Chief Commissioner of the Central Provinces, *see* Central Provinces Gazette, 1900, Pt. I, p. 157;
(*2*) the Punjab, *see* Punjab Gazette, 1900, Pt. I, p. 577;
(*3*) Bengal (under this section in conjunction with s. 42), *see* Calcutta Gazette, 1900, Pt. I, p. 1152.
(*4*) Government of Bombay, *see* Bombay Government Gazette, 1901, Pt. I, p. 1728.
(*5*) Ajmer-Merwara, *see* Gazette of India, 1903, Pt. II, p. 483.

[3] For notification issued by the Government of Bombay under this section, *see* Bombay Government Gazette, 1902, Pt I, p. 1729.

on the day of next by of the clock in the forenoon of the same day, there to give evidence in a matter now pending before the said Court, and after the said has then and there given his evidence before the said Court or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the prison.

The day of

A. B.

(Countersigned) *C. D.*

THE SECOND SCHEDULE.

(*See section 37.*)

Court of

To the officer in charge of the (*state name of prison*).

You are hereby required to produce , now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the same day, there to answer a charge now pending before the said Court, and after such charge has been disposed of or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

The day of

A. B.

(Countersigned) *C. D.*

THE THIRD SCHEDULE.

(*See section 53.*)

Year.	No.	Title.	Extent of repeal.
1869	XV	The Prisoners' Testimony Act, 1869 . .	The whole Act.
1871	V	The Prisoners Act, 1871	The whole Act, except section 15.
1882	IX	The Prisoners Act Amendment Act, 1882 .	The whole Act.
1886	X	The Indian Criminal Law Amendment Act, 1886.	Section 25.
[1]1889	XI	The Lower Burma Courts Act, 1889 . .	Section 98.
1891	XII	The Repealing and Amending Act, 1891 .	So much as relates to Act V of 1871.
1893	V	The Foreign Jurisdiction (Capital Sentences) Act, 1893	The whole Act.
1894	VII	The Prisoners Act (1871) Amendment Act, 1894.	The whole Act.
1897	VIII	The Reformatory Schools Act, 1897 . .	Section 30.

[1] The whole Act was subsequently repealed by the Lower Burma Courts Act, 1900 (VI of 1900).

ACT No. IV OF 1900.[1]

[*16th February, 1900.*]

An Act to authorize certain Companies registered under the Indian Companies Act, 1882, to keep branch registers of their members in the United Kingdom.

WHEREAS it is expedient to authorize certain Companies registered under the Indian Companies Act, 1882,[2] to keep branch registers of their members in the United Kingdom; It is hereby enacted as follows:—

VI of 1882.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Companies (Branch Registers) Act, 1900;

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) the expression "Company" means a Company registered under the Indian Companies Act, 1882,[2] having its capital divided into shares; and

VI of 1882.

(*b*) the expression "shares" includes stock.

Power to keep branch registers in the United Kingdom.

3. (*1*) Any Company may, if authorised so to do by its regulations as originally framed or as altered by special resolution, cause to be kept in the United Kingdom a branch register or registers of members.

(*2*) The Company shall give to the Registrar of Joint-Stock Companies notice of the situation of the office where any such branch register (hereinafter called a "British register") is kept, and any change therein, and of the discontinuance of any such office in the event of the same being discontinued, and the Registrar shall record such notice.

(*3*) A British register shall, as regards the particulars entered therein, be deemed to be a part of the Company's register of members kept under the Indian Companies Act, 1882,[2] and shall be *primâ facie* evidence of all particulars entered therein. Every such branch register shall be kept in the manner provided by section 47 of the said Act.

VI of 1882.

(*4*) The Company shall transmit to its registered office in India a copy of every entry in its British register or registers as soon as may be after such

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 74; for Report of the Select Committee, *see ibid*, 1900, p. 37; for Proceedings in Council, *see ibid*, 1900, Pt. VI p. 185; *ibid*, 1900, pp. 10 and 40.

[2] General Acts, Vol. IV.

entry is made, and shall cause to be kept at such office, duly entered up from time to time, a duplicate or duplicates of its British register or registers. The provisions of section 55 and section 60 of the Indian Companies Act, 1882,[1] shall apply to every such duplicate, and every such duplicate shall, for the purposes of the said Act, be deemed to be part of the register of members of the Company. VI of 1882.

(*5*) Subject to the provisions of this Act with respect to the duplicate register, the shares registered in a British register shall be distinguished from the shares registered in the Indian register, and no transaction with respect to any shares registered in a British register shall, during the continuance of the registration of such shares in such British register, be registered in any other register.

(*6*) The Company may discontinue any British register, and thereupon all entries in that register shall be transferred to some other British register kept by the Company in the United Kingdom or to the register of members kept at the registered office of the Company in India.

Power to make rules and prescribe forms.

4. The Governor General in Council may, by notification in the Gazette of India, make rules and prescribe forms for the purpose of carrying into effect the provisions of this Act.

Construction with Act VI, 1882.

5. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Indian Companies Act, 1882.[1] VI of 1882.

ACT No. V OF 1900.[2]

[*16th February, 1900.*]

An Act further to amend the Whipping Act, 1864.

WHEREAS it is expedient further to amend the Whipping Act, 1864[3]; It is hereby enacted as follows:— VI of 1864

Short title, extent and commencement

1. (*1*) This Act may be called the Whipping Act, 1900;

(*2*) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas; and

(*3*) It shall come into force at once.

Addition of new section

2. After section 4 of the Whipping Act, 1864,[3] as amended by the Indian VI of 1864.

[1] General Acts, Vol. IV.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 68; for Report of the Select Committee, *see ibid*, 1900, p. 33; and for Proceedings in Council, *see ibid.* 1899, pp. 188 and 242, and *ibid*, 1900, p 25.

[3] General Acts, Vol. I.

III of 1895. Criminal Law Amendment Act, 1895,[1] the following shall be added, namely :— after section 4, Act VI, 1864.

"4A. Whenever any Local Government has, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declared the provisions of this section to be in force in any local area within its province, any person in that local area, who, being a member of an assembly of two or more persons, the common object of which assembly is to commit rape as defined in section 375 of the Indian Penal Code,[2] abets, commits or attempts to commit such offence, may be punished with whipping in addition to any other punishment to which, for such abetment, offence or attempt, he may be liable under the said Code." Additional punishment of whipping for rape in certain cases. XLV of 1860.

VI of 1864. III of 1895. 3. For section 5 of the Whipping Act, 1864,[1] as amended by section 6 of the Indian Criminal Law Amendment Act, 1895, the following shall be substituted, namely :— Substitution of new section for section 5, Act VI, 1864.

"5. Any juvenile offender who abets, commits or attempts to commit— Juvenile offenders when punishable with whipping.

XLV of 1860. (*a*) any offence which is punishable under the Indian Penal Code[2] otherwise than with death, or

(*b*) any offence which is punishable under any other law with imprisonment,

may be punished with whipping in lieu of any other punishment to which he may for such offence, abetment or attempt be liable :

Provided that the Governor General in Council may, by notification in the Gazette of India, direct that the punishment of whipping shall not be inflicted in respect of such offences falling under clause (*b*) as he may think fit to specify in this behalf.

Explanation.—In this section the expression 'juvenile offender' means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive."

XLV of 1860. VI of 1864. 4. The words "under the provisions of the Indian Penal Code[2]" in the preamble to the Whipping Act, 1864,[1] the words "under the provisions of the said Code" in section 1 of the same Act, and section 6 of the Indian Criminal Law Amendment Act, 1895,[1] are hereby repealed. Repeal. III of 1895.

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[1] General Acts, Vols. VI & I, respectively.
[2] General Acts, Vol. I. *See* also a revised edition of the Penal Code as modified up to 1st April, 1903.

ACT No. VII OF 1900.[1]

[*22nd March, 1900.*]

An Act to amend and provide for the further continuance of the Currency Conversion (Army Annual) Act, 1899.

WHEREAS it is expedient to amend the Currency Conversion (Army Annual) Act, 1899, and to provide for its further continuance; It is hereby enacted as follows:—

Substitution of a new section for section 2, Act XIX of 1899.

1. For section 2 of the said Act the following shall be substituted, namely:—

[*Vide supra*, p. 110.]

Repeals.

2. The following provisions of the said Act are hereby repealed, namely:—

In section 1, sub-section (*1*), the word 'Annual,' and section 3.

ACT No. VIII OF 1900.[2]

[*29th June, 1900.*]

An Act to amend the Indian Paper Currency Act, 1882, as amended by the Indian Paper Currency Act, 1898.

WHEREAS it is expedient to amend the Indian Paper Currency Act, 1882,[3] as amended by the Indian Paper Currency Act, 1898; It is hereby enacted as follows:— XX of 1882. II of 1898.

Short title and commencement.

1. (*1*) This Act may be called the Indian Paper Currency Act, 1900.

(*2*) It shall come into force at once.

* * * * * *[4]

Substitution of a new section for section 13A, Act XX of 1882.

2. For section 13A of the Indian Paper Currency Act, 1882, the following section shall be substituted, namely:— XX of 1882.

Gold coin or bullion held

"13A. (*1*) If the Secretary of State for India shall consent to hold in

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 75; for Proceedings in Council, *see ibid*, Pt. VI, pp. 46 and 81.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 80; for Proceedings in Council, *see ibid*, Pt. VI, pp. 157 and 161.

The Act has been extended to the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Sonthal Parganas Settlement Regulation (III of 1872) as modified up to 1st October, 1899, *see* Calcutta Gazette, 1901, Pt. I, p. 673.

[3] General Acts, Vol. IV.

[4] Repealed by the Paper Currency Act, 1902 (IX of 1902), *infra*, p. 202.

gold coin or gold bullion the equivalent in value to notes issued in India as a reserve to secure the payment of such notes, the Governor General in Council may from time to time direct that currency notes shall be issued to an amount equal to the value of gold so held by the Secretary of State for India at the rate fixed by section 12 of the Indian Coinage Act, 1870.[1]

as a reserve by Secretary of State.

XXIII of 1870.

(*2*) If the Secretary of State for India shall transmit the gold held by him under sub-section (*1*) or any part thereof in the form of gold coin or gold bullion to the Government of India, the coin or bullion so transmitted shall, when received by the Government of India, form part of the currency reserve under section 19.

Gold, if transmitted to India, to form part of reserve.

(*3*) If the Secretary of State for India shall think it expedient to expend the gold coin or bullion held by him under sub-section (*1*) or any other funds at his disposal in the purchase of silver bullion and to transmit the same to India for currency purposes, then—

Transmission of silver bullion by Secretary of State.

(*a*) the silver bullion so purchased shall, until rupees are added to the currency reserve under clause (*b*) of this sub-section, be held as security for currency notes; and

(*b*) the Government of India shall, on receiving such silver bullion, give directions for coining the same into rupees as soon as convenient, and shall add to the currency reserve a number of the rupees so coined equal in value, at the rate fixed by secton 12 of the Indian Coinage Act, 1870,[1] to the price of the silver bullion so purchased and transmitted as aforesaid.

XXIII of 1870.

(*4*) (*a*) Nothing in this Act shall be deemed to prohibit the Government of India from expending any gold coin or gold bullion held as part of the currency reserve under section 19 in the purchase of silver bullion.

Purchase of silver by Government of India.

(*b*) The silver bullion so purchased shall, until rupees are added to the currency reserve under clause (*c*) of this sub-section, take the place of the gold so expended as security for the currency notes issued.

(*c*) On receiving such silver bullion, the Government of India shall give directions for coining the same into rupees as soon as convenient, and shall add to the currency reserve under section 19 a number of the rupees so coined equal in value, at the rate fixed by section 12 of the Indian Coinage Act, 1870,[1] to the gold so expended by the Government of India.

XXIII of 1870.

(*5*) If the Government of India shall appropriate and set apart in India as a part of the currency reserve under section 19 an amount of coin of the

Gold held as reserve by Secretary

[1] General Acts, Vol. II.

of State may be replaced by coin added to reserve in India.

Government of India equal in value to any notes issued under this section, the gold held by the Secretary of State for India as a reserve to secure the payment of such notes shall be dealt with as the Secretary of State shall direct.

Account.

(6) Coin or bullion held by the Secretary of State or in transit to India, or in the custody of the Mint Master during coinage, shall be separately shown in the abstract of accounts made up under section 27."

3. (*Repeal.*) *Rep. by the Indian Paper Currency Act, 1902* (*IX of 1902*).

ACT No. IX OF 1900.[1]

[*29th June, 1900.*]

An Act to provide for the Court-fee payable on certain Applications to the Court of the Financial Commissioner of the Punjab.

WHEREAS it is expedient to provide for the court-fee payable on applications to the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 84 of the Punjab Tenancy Act, 1887[2]; It is hereby enacted as follows:— XVI of 1887.

Amendment of No. 13, First Schedule, Act VII, 1870.

1. To the first column of No. 13 of the First Schedule to the Court-fees Act, 1870,[3] as inserted therein by section 71 of the Punjab Courts Act, 1884,[2] as amended by the Punjab Courts Act, 1899,[2] the following words shall be added, namely:—"or to the Court of the Financial Commissioner of the Punjab for the exercise of its revisional jurisdiction under section 84 of the Punjab Tenancy Act, 1887." [2] VII of 1870. XVIII of 1884. XXV of 1899. XVI of 1887.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 81; for Proceedings in Council, *see ibid*, 1900, Pt. VI, pp. 158 and 162.

[2] Punjab Code, Ed. 1903.

[3] General Acts, Vol. II.

ACT No. XI OF 1900.[1]

[*24th August, 1900.*]

An Act further to amend the Indian Limitation Act, 1877.

XV of 1877. WHEREAS it is expedient further to amend the Indian Limitation Act, 1877[2]; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Limitation Amendment Act, 1900; and

XV of 1877. (*2*) It shall come into force at once.

Addition to Second Schedule, Act XV, 1877.

2. After No. 146 of the Second Schedule to the Indian Limitation Act, 1877, the following shall be inserted, namely:—

146 A. By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	Thirty years	The date of dispossession or discontinuance.

ACT No. XII OF 1900.[3]

[*24th August, 1900.*]

An Act to amend the Law of Evidence with respect to Bankers' Books.

XVIII of 1891. WHEREAS it is expedient to amend the [4]Bankers' Books Evidence Act, 1891; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bankers' Books Evidence Act, 1900; and

(*2*) It shall come into force at once.

Amended definition of "company".

2. For the definition of "company" contained in section 2, sub-section (*1*), of the said Act, the following shall be substituted, namely:—

"(*1*) 'company' means a company registered under any of the enactments

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 51; for Proceedings in Council, *see ibid*, Pt. VI, pp. 164 and 174.

The Act has been extended to the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), as modified up to 1st October 1899, *see* Calcutta Gazette, 1901, Pt. I, p. 678.

[2] General Acts, Vol. III.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 59; for Proceedings in Council, *see ibid*, Pt. VI, pp. 164 and 174.

The Act has been extended to the Santhal Parganas by Notification under s. 3 (*3*) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872), as modified up to 1st October 1899, *see* Calcutta Gazette, 1901, Pt. I, p. 678.

[4] General Acts, Vol. VI.

relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or of the Governor General in Council, or by Royal Charter or Letters Patent ;".

ACT No. II OF 1901.[1]

[*22nd February, 1901.*]

An Act to amend the law relating to the exemption from tolls of persons and property belonging to the Army.

WHEREAS certain officers, soldiers and other persons, and certain animals, baggage and carriages belonging or attached to the Army, are exempted by section 143 of the Army Act[2] from payment of certain duties or tolls; 44 & 45 Vict., c. 58.

And whereas similar exemptions are made by various enactments of the Indian legislatures, but these exemptions are not co-extensive with those made by the said Army Act;

And whereas it is expedient to remove the inconsistency now existing between the said Army Act and the said enactments, and to exempt certain other persons and property belonging to the Army from payment of certain tolls;

And whereas it is declared by section 169 of the said Army Act that "it shall be lawful for the Governor General of India . . . . . to provide by law for reducing any fine directed by this Act to be recovered on summary conviction to such amount as may appear to the Governor General . . . . . to be better adapted to the pecuniary means of the inhabitants; and also to declare the amount of the local currency which is to be deemed for the purposes of this Act to be equivalent to any sum of British currency mentioned in this Act," and it is expedient to alter in the manner hereinafter appearing the fine imposed by section 143 of the said Army Act;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Tolls (Army) Act, 1901.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force on the first day of April, 1901.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "ferry" includes every bridge and other thing which is a ferry

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 175; for Report of the Select Committee, *see ibid*, 1901, Pt. V, p. 7; for Proceedings in Council, *see ibid*, 1900, Pt. VI, p. 236; *ibid*, 1901, Pt. VI, pp. 11 and 16.

[2] Collection of Statutes relating to India, Vol. II, Ed. 1899.

within the meaning of any enactment authorizing the levy of tolls on ferries, but does not include any ferry or other thing which is included in the definition of "railway" in section 3 of the Indian Railways Act, 1890[1]:

IX of 1890.

(*b*) the expression "His Majesty's Regular Forces" has the meaning assigned to it by section 190, clause (8), of the Army Act,[2] and includes the Indian Reserve Forces when subject to military law:

44 & 45 Vict., c. 58.

(*c*) "horse" includes a mule and any beast of whatever description which is used for burden or draught or for carrying persons:

(*d*) the expression "Indian Reserve Forces" means the forces constituted by the Indian Reserve Forces Act, 1888,[3] and includes persons holding commissions in the Indian Army Reserve of officers when called out in any military capacity:

IV of 1888.

(*e*) "landing-place" includes a pier, wharf, quay, jetty and a stage, whether fixed or floating:

(*f*) the expression "local corps" means the Hyderabad Contingent, the Central India Horse, the Malwa Bhil Corps, the Bhopal Battalion, the Deoli Irregular Force, the Erinpura Irregular Force, the Meywar Bhil Corps, the Merwara Battalion and the Escort of the Resident in Nepal, and includes any other corps which may be notified by the Governor General in Council in this behalf by order published in the Gazette of India:

(*g*) "public authority" means the Government or a local authority; and, so far as regards tolls levied by a railway company under section 4 of the Indian Guaranteed Railways Act, 1879,[4] or section 51 of the Indian Railways Act, 1890,[1] includes such a railway company: and

42 & 43 Vict., c. 41.
IX of 1890.

(*h*) "tolls" include duties, dues, rates, rents, fees and charges, but do not include customs-duties levied under the [5] Indian Tariff Act, 1894, octroi-duties or town-duties on the import of goods, or fares paid for the conveyance of passengers on a tramway.

VIII of 1894.

Exemptions from tolls.

3. The following persons and property, namely:—

(*a*) all officers and soldiers of—

(i) His Majesty's Regular Forces,

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[1] *See* now the revised edition of the Act as modified up to 1st January, 1903.
[2] Collection of Statutes relating to India, Vol. II, Ed. 1899.
[3] General Acts. Vol. V.
[4] Collection of Statutes relating to India, Ed. 1899, Vol. II, p. 594.
[5] General Acts, Vol. VI.

(ii) any local corps, or
(iii) Imperial Service Troops,
when on duty or on the march,

(*b*) all members of a corps of Volunteers when on duty or when proceeding to or returning from duty,

(*c*) all officers and soldiers of the Indian Reserve Forces when proceeding from their place of residence on being called out for training or service or when proceeding back to their place of residence after such training or service,

(*d*) all grass-cutters when employed in the service of—
(i) His Majesty's Regular Forces,
(ii) any local corps,
(iii) Imperial Service Troops, or
(iv) any corps of Volunteers,

(*e*) all other authorized followers of—
(i) His Majesty's Regular Forces,
(ii) any local corps,
(iii) Imperial Service Troops, or
(iv) any corps of Volunteers,
when they accompany any body of such Forces, troops or Volunteers or any members of such corps on the march, or when they are otherwise moving under the orders of military authority,

(*f*) all members of the families of officers, soldiers or authorized followers of—
(i) His Majesty's Regular Forces, or
(ii) any local corps,
when accompanying any body of troops, or any officer, soldier or authorized follower thereof on duty or on the march,

(*g*) all prisoners under military escort,

(*h*) the horses and baggage, and the persons (if any) employed in carrying the baggage, of any persons exempted under any of the foregoing clauses, when such horses, baggage or persons accompany the persons so exempted under the circumstance mentioned in those clauses respectively,

(*i*) all carriages and horses belonging to His Majesty or employed in His Majesty's military service and all persons in charge of or accompanying the same, when conveying any such persons as hereinbefore in this section mentioned, or when conveying

baggage or stores, or when returning unladen from conveying such persons, baggage or stores,

(*j*) all carriages and horses, when moving under the orders of military authority for the purpose of being employed in His Majesty's military service,

(*k*) all animals accompanying any body of troops which are intended to be slaughtered for food or kept for any purpose connected with the provisioning of such troops, and

(*l*) all persons in charge of any carriage, horse or animal exempted under any of the foregoing clauses when accompanying the same under the circumstances mentioned in those clauses respectively,

shall be exempted from payment of any tolls—

(*i*) on embarking or disembarking, or on being shipped or landed, from or upon any landing-place, or

(*ii*) in passing along or over any turnpike or other road or bridge, or

(*iii*) on being carried by means of any ferry,

otherwise demandable by virtue of any Act, Ordinance, Regulation, order or direction of any legislature or other public authority in British India:

Provided that nothing in this section shall exempt any boats, barges or other vessels employed in conveying the said persons or property along any canal from payment of tolls in like manner as other boats, barges and vessels.

Tolls on vessels transporting troops and baggage, etc., of troops embarked or disembarked.

4. (*1*) No tolls shall be leviable by any local authority in respect of—

(*a*) any vessel employed by the Government solely for the transport of troops, or

(*b*) the horses, baggage or other effects of any troops embarking or disembarking at any port, or

(*c*) carriages belonging to His Majesty or employed in His Majesty's military service embarking or disembarking at any port.

(*2*) In respect of all such vessels or troops, their families, their horses, baggage and their effects, or any such carriages as aforesaid, the local authority concerned shall, in addition to its duties in the embarking and disembarking of the same, perform and supply all such reasonable services and accommodation as may, from time to time, be required by the Government, and shall receive payment for all such services and accommodation on such terms and for such periods as may, from time to time, be determined by the Government in consultation with such local authority.

Penalty.

5. Any person who demands and receives any toll in contravention of the provisions of section 3 or section 4, shall be punishable with the fine which may extend to fifty rupees.

Compensation.

6. (*1*) If any owner or lessee, or any Company, railway administration or local authority claims compensation for any loss alleged to have been incurred owing to the operation of this Act, the claim shall be submitted to the Local Government.

(*2*) On receiving any such claim, the Local Government, subject to the control of the Governor General in Council, shall pass such order thereon as justice requires, and shall give all necessary directions for the purpose of ascertaining the facts of the case and of assessing the compensation, if any, to be paid.

Rules

7. (*1*) [1]The Governor General in Council, and the Local Government, with the previous sanction of the Governor General in Council, may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Governor General in Council, or the Local Government, with the previous sanction of the Governor General in Council, may make rules providing for the form of passes to be given to persons or bodies of persons or in respect of property entitled to exemption from the payment of tolls under this Act.

(*3*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

(*4*) All rules made under this section shall be published in the Gazette of India or in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

Repeals.

8. The enactments specified in the schedule are hereby repealed to the extent mentioned in the fourth column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

(*See section 8.*)

Year.	Number.	Short title or subject.	xtent of repeal.
		Acts of the Governor General in Council.	
1851	VIII	The Indian Tolls Act, 1851.	In section 4, *the words* of troops and military stores and equipages on their march or.
1878	XVII	The Northern India Ferries Act, 1878.	So much of section 15 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.

[1] For rules showing the form of passes and the circumstances in which certain persons do not require passes, *see* Gazette of India, 1903, Pt. I, p. 963.

THE SCHEDULE—*contd.*

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Governor of Fort St. George in Council.	
1884	I	The City of Madras Municipal Act, 1883.	In section 174, *the word* troops *and the word* military; *also* so much of the section as relates to any Government stores, vehicles, animals or other property which are or is exempted by section 3 of this Act.
1884	IV	The Madras District Municipalities Act, 1884.	In section 91, sub-section (*3*), clause (*b*), as amended by the Madras District Municipalities Act Amendment Act, 1897 (Madras Act III of 1897), *the words* troops, military stores and baggage, military and.
*	*	* *	* * [1]
		Acts of the Governor of Bombay in Council.	
1868	II	The Bombay Ferries Act, 1868.	Section 3, clause (*a*).
1875	III	Tolls on Public Roads and Bridges.	In section 5, *the words* of troops and military stores and equipages on their march or.
1879	VI	The Bombay Port Trust Act, 1879.	Section 44.
1886	VI	The Karachi Port Trust Act, 1886.	Section 45.
1888	III	The City of Bombay Municipal Act, 1888.	In section 190, sub-section (*1*), *the letter* (*b*); *also* so much of the rest of the sub-section as excepts vehicles which are exempted by section 3 of this Act.
"	V	The Aden Port Trust Act, 1888.	Section 40, sub-section (*3*), clause (*b*).
		Acts of the Lieutenant-Governor of Bengal in Council.	
1876	V	The Bengal Municipal Act 1876.	In section 159, *the words* of troops on the march or of animals or vehicles employed in the transport of such troops or, *the words* military or, *in both places in which they occur, and the words* or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department,

[1] The entry relating to the Madras Local Boards Act, 1884 (Mad. Act V of 1884), was repealed by the Repealing and Amending Act, 1901 (XI of 1901), *infra*, p. 179; *see* now the repeal made by that Act, third schedule.

THE SCHEDULE—*concld.*

Year.	Number.	Short title or subject.	Extent of repeal.
		Acts of the Lieutenant-Governor of Bengal in Council—concld.	
1876	V	The Bengal Municipal Act, 1876—*contd.*	and which pass through a toll-bar: *also* so much of the section as relates to any Government stores, and so much of the proviso as relates to any animals, which are exempted by section 3 of this Act.
1884	III	The Bengal Municipal Act, 1884.	In section 168, *the words* of troops on the march or of animals or vehicles employed in the transport of such troops or, *the words* military or *in both places in which they occur, and the words* or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar: *also* so much of the section as relates to any Government stores, and so much of the proviso as relates to any animals, which are exempted by section 3 of this Act.
1885	I	The Bengal Ferries Act, 1885.	So much of section 18, as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.
		Act of the Lieutenant-Governor of Burma in Council.	
1898	II	The Burma Ferries Act, 1898.	So much of section 16 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by section 3 of this Act.

ACT No. III OF 1901.[1]

[*22nd February, 1901.*]

An Act further to amend the Indian Ports Act, 1889.

WHEREAS it is expedient further to amend the Indian Ports Act, 1889; X of 1889.
It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Ports Act, 1901; and
(*2*) It shall come into force at once.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 114; for Report of the Select Committee, *see ibid*, 1901, Pt. V, p. 15; for Proceedings in Council, *see ibid*, 1900, Pt. VI, p. 232, *ibid*, 1901, Pt. VI, pp. 12 and 16.

X of 1889.

2. (*1*) For clause (*p*) of sub-section (*1*) of section 6 of the Indian Ports Act, 1889, the following shall be substituted, namely: Amendment of section 6, Act X, 1889.

"(*p*) with the previous sanction of the Governor General in Council, for the establishment and regulation of places to be used as sanitaria for the segregation or as hospitals for the treatment of persons who are or have recently been suffering from any dangerous, infectious or contagious disease and for regulating the action, including the disposal of dead bodies, to be taken—

(*i*) where a vessel on which there is any case of dangerous, infectious or contagious disease common in India, enters or is in any such port;

(*ii*) where a vessel on which there is any case of dangerous, infectious or contagious disease uncommon in India, enters or is in any such port;

(*iii*) where a vessel on which there has been any case of dangerous, infectious or contagious disease or any death within twelve days previous to the arrival of the vessel at such port, enters or is in any such port;

(*iv*) where a vessel enters any such port from a port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any dangerous, infectious or contagious disease uncommon in India;

(*v*) where a vessel enters any such port having on board any person transhipped from a vessel coming from a port in which or in the neighbourhood of which there is believed to be or to have been at the time when such last-mentioned vessel left such last-mentioned port any dangerous, infectious or contagious disease uncommon in India;

(*vi*) where there is a dead body on board a vessel in any such port;

(*vii*) where there are on board a vessel in any such port food stuffs which, owing to decomposition or for any other reason, are, in the opinion of the Health Officer, unfit for human consumption; or

(*viii*) where a vessel leaves any such port while there is in the port or in its neighbourhood any dangerous, infectious or contagious disease uncommon in India.

For the purposes of this clause only such diseases shall be deemed to be dangerous, infectious or contagious diseases, or diseases common or uncommon in India, as the Governor General in Council may by order direct."

(*2*) After sub-section (*2*) of the same section, the following sub-sections shall be inserted, namely :—

"(*3*) If any person disobeys any rule made under clause (*p*) of sub-section (*1*), he shall be punished for every such offence with fine which may extend to one thousand rupees.

(*4*) If a master fails wholly or in part to do any act prescribed by any rule made under clause (*p*) of sub-section (*1*), the Health Officer shall cause such act to be done, and the reasonable expenses incurred in doing such act shall be recoverable by him from such master."

Repeal of Act I, 1870.

3. The Indian Quarantine Act, 1870, is hereby repealed. I of 1870.

ACT No. V OF 1901.[1]

[*9th March, 1901.*]

An Act further to amend the Indian Forest Act, 1878.

WHEREAS it is expedient further to amend the Indian Forest Act, 1878[2]; VII of 1878.
It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Indian Forest (Amendment) Act, 1901; and

(*2*) It shall come into force at once.

Addition to section 32, Act VII, 1878.

2. To section 32 of the Indian Forest Act, 1878,[2] the following clause VII of 1878.
shall be added, namely :—

"Whenever fire is caused wilfully or by gross negligence in a protected forest, the Local Government may (notwithstanding that any penalty has been inflicted under this section) direct that in such forest or any portion thereof the exercise of any right of pasture or to forest-produce shall be suspended for such period as it thinks fit."

Amendment of section 33, Act VII of 1878.

3. In section 33 of the said Act, after the words and figures "except as regards any portion of a forest closed under section 29" the words and figures "or any rights the exercise of which has been suspended under section 32" shall be inserted.

Amendment of section 78,

4. From section 78 of the said Act the words "demanding his aid" shall

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1900, Pt. V, p. 116; for Report of the Select Committee, *see ibid*, 1901, Pt. V, p. 79; for Proceedings in Council, *see ibid*, 1900. Pt. VI, p. 236; *ibid*, 1901, Pt. VI, pp. 16, 17 and 31.

The Act has been declared in force in the Santhal Parganas, by notification under s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as modified up to the 1st October, 1899, *see* Calcutta Gazette 1902, Pt. I, p. 810.

[2] General Acts, Vol. III.

be omitted before clause (*a*), and after clause (*b*) the following shall be inserted, namely :— Act VII, 1878.

"and shall assist any Forest-officer or Police-officer demanding his aid—".

ACT No. VII OF 1901.[1]

[*22nd March, 1901.*]

An Act to place Native Christians in the same position as Hindus, Muhammadans and Buddhists in the matter of obtaining letters of administration and for other purposes.

WHEREAS it is expedient to place Native Christians on the same footing as Hindus, Muhammadans and Buddhists in the matter of obtaining letters of administration; to exempt them from the operation of certain provisions of the Administrator General's Act, 1874,[2] from which Hindus, Muhammadans, Parsis and Buddhists are exempted; and to enable them to obtain certificates under the Succession Certificates Act, 1889,[3] in certain cases; It is hereby enacted as follows :—

II of 1874.

VII of 1889.

Short title and commencement.

1. (*1*) This Act may be called the Native Christian Administration of Estates Act, 1901; and

(*2*) It shall come into force at once.

Definition.

2. In this Act, the expression "Native Christian" means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion.

Exemption of Native Christians from sections 190 and 239, Act X, 1865.

X of 1865.

3. Sections 190 and 239 of the Indian Succession Act, 1865,[4] shall not apply to any part of the property of a Native Christian who has died intestate.

Exemption of Native Christians from certain sections of Act II of 1874.

II of 1874.

4. In sections 16, 17, 18, 37 and 64 respectively of the Administrator General's Act, 1874,[2] before the word "Hindu" wherever it occurs, the word "Native Christian" shall be inserted:

Provided that nothing contained in this section shall affect any probate, letters of administration or certificate granted or vested under the said Act.

Grant of certificates under Act

VII of 1889.

5. Nothing contained in section 1, sub-section (*4*), of the Succession Certificates Act, 1889,[3] shall be deemed to prevent the grant of a certificate

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 5; for Report of the Select Committee, *see ibid*, 1901, Pt. V, p. 95; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 4, 12, 105 and 123.

The Act has been declared in force in the Santhal Parganas by notification under s. 3 of the Santhal Parganas Settlement Regulation, 1872 (III of 1872), as modified up to 1st October, 1899—*see* Calcutta Gazette, 1902, Pt. I, p. 310.

[2] General Acts, Vol. II.

[3] General Acts, Vol. V.

[4] General Acts, Vol. I.

VII of 1889 to Native Christians in certain cases.

to any person claiming to be entitled to the effects of a deceased Native Christian, or to any part thereof, with respect to any debt or security, by reason that a right thereto can be established by letters of administration under the Indian Succession Act, 1865.[1] X of 1865.

ACT No. VIII OF 1901.[2]

[*22nd March, 1901.*]

An Act to provide for the Regulation and Inspection of Mines.

WHEREAS it is expedient to provide for the regulation and inspection of mines; It is hereby enacted as follows :—

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Mines Act, 1901.

(*2*) It extends to the whole of British India, including British Baluchistan, the Santhal Parganas and the Pargana of Spiti; and

(*3*) It shall come into force at once.

Saving of Regulation XII, 1887.

2. Nothing in this Act shall be construed to affect the provisions of the Upper Burma Ruby Regulation, 1887.[3] XII of 1887.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "agent," when used in relation to a mine, means any person appointed as the representative of the owner in respect of the management of the mine or of any part thereof, and as such superior to a manager under this Act:

(*b*) "child" means a person under the age of twelve years:

(*c*) a person is said to be "employed" in a mine who works, under appointment by or with the knowledge of the manager, whether for wages or not, in any mining operation, or in cleaning or oiling any part of any machinery used in or at the mine, or in any other kind of work whatsoever incidental to, or connected with, mining operations:

(*d*) "mine" includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven for com-

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[1] General Acts, Vol. I.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1899, Pt. V, p. 59; for Report of the Select Committee, *see ibid*, 1900, Pt. V, p. 45; *ibid*, 1901, Pt. V, p. 83; for Proceedings in Council, *see ibid*, 1899, Pt. VI, p. 128; *ibid*, 1900, Pt. VI, pp. 10, 44, and 236; *ibid*, 1901, Pt. VI, pp. 2, 82 and 126.

[3] Burma Code, Ed. 1899.

mencing or opening any mine or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways and sidings, both below ground and above ground, in and adjacent to and belonging to the mine; but it does not include any pit, quarry or other excavation the depth of no part of which measured from the level of the adjacent ground exceeds twenty feet and no part of which extends beneath the superjacent ground :

(*e*) "owner," when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof, and does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability :

(*f*) "prescribed" means prescribed by rules made under this Act : and

(*g*) "shaft" includes pit.

Inspectors.

Inspectors.

4. (*1*) The Governor General in Council shall, by notification in the Gazette of India, appoint a duly qualified person to be Chief Inspector of Mines throughout British India.

(*2*) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, appoint persons, qualified by experience, to be Inspectors of Mines within such local areas or for such groups or classes of mines as it may assign to them respectively.

(*3*) Every Inspector of Mines appointed under sub-section (*2*) shall, in the performance of his duties, be subordinate to the Chief Inspector of Mines appointed under sub-section (*1*) in such respects and to such extent as may be prescribed by the Governor General in Council.

(*4*) The Chief Inspector and every Inspector of Mines appointed under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code,[1] and shall be subordinate to such authority as the

XLV of 1860.

[1] *See* the revised edition as modified up to 1st April, 1903.

Governor General in Council or the Local Government, as the case may be, may direct.

(*5*) No Chief Inspector or Inspector of Mines shall be a partner or have any interest, direct or indirect, in any mine or mining rights in India.

(*6*) When rules are made under this Act, the Inspector of Mines shall give information to owners, agents and managers of mines within the local area, or the group or class of mines, for which he has been appointed as to any rules which concern them respectively, and as to the places where copies of such rules may be obtained.

Powers of District Magistrate.

5. The District Magistrate may exercise such of the powers and perform such of the duties of an Inspector of Mines as the Local Government may, by general or special order, direct:

Provided that nothing in this section shall be deemed to empower a District Magistrate to exercise any of the powers conferred by section 15 or section 21.

Powers of Inspectors of Mines.

6. The Chief Inspector of Mines may, anywhere within British India, and an Inspector of Mines may, within the local area or with respect to the group or class of mines for which he is appointed,—

(*a*) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules and orders made thereunder are observed in the case of any mine;

(*b*) enter, with such assistants (if any) as he thinks fit, inspect and examine any mine and any part thereof at all reasonable times by day or by night, but not so as unreasonably to impede or obstruct the working of the mine;

(*c*) examine into, and make inquiry respecting, the state and condition of any mine or any part thereof, the ventilation of the mine, the sufficiency of the special rules for the time being in force in and at the mine and all matters and things connected with or relating to the safety of the persons employed in or about the mine;

(*d*) order that any person shall not be employed in, or admitted to, or shall be removed from, a mine where there is ground for believing that his employment in or admission to or presence in such mine would be dangerous to himself or others: Provided that an appeal shall lie to such authority as the Governor General in Council or the Local Government, as the case may be, may direct from any order made under this clause, and that the order shall be complied

with until the decision of such authority shall be received at the mine;

(*e*) do all other things required of him by or under this Act.

Facilities to be afforded to Inspectors.

7. Every owner, agent and manager of a mine shall furnish the Chief Inspector and every Inspector of Mines, on requisition, with the means necessary for making any entry, inspection, examination or inquiry in relation to the working of the mine under this Act.

Information acquired to be deemed official secrets within meaning of Act XV, 1889.

8. (*1*) All copies of, and extracts from, registers or other records appertaining to any mine, and all other information acquired by the Chief Inspector or an Inspector of Mines, or by any one assisting him, in the inspection of any mine under this Act, shall be regarded as strictly confidential.

(*2*) If any such person discloses to any one, other than a Magistrate or an officer to whom he is subordinate, any such information as aforesaid without the consent of the Governor General in Council or the Local Government, as the case may be, he shall be guilty of a breach of official trust, and shall be punishable in the manner provided by section 4 of the Indian Official Secrets Act, 1889.[1]

XV of 1889.

(*3*) No Court shall take cognizance of any offence under this section unless on a prosecution at the instance of the Governor General in Council, or the Local Government, or of a person aggrieved by the same.

Mining Boards and Committees.

Mining Boards.

9. (*1*) The Local Government may constitute for the Province, or for any part of the Province, or for any group or class of mines in the Province, a Mining Board consisting of—

(*a*) a public officer, not being the Chief Inspector or an Inspector of Mines, nominated by the Local Government to act as chairman;

(*b*) the Chief Inspector or the Inspector of Mines;

(*c*) one other person, not being the Chief Inspector or an Inspector of Mines, nominated by the Local Government; and

(*d*) two persons nominated by owners of mines or their representatives in such manner as the Local Government may direct.

(*2*) The chairman shall appoint a person to act as secretary of the Board.

(*3*) The Local Government may give directions as to the payment of travelling expenses incurred by the chairman, secretary or any member of a

[1] General Acts, Vol. V.

Mining Board in the performance of his duty as such chairman, secretary or member.

Committees.

10. (*1*) Where under this Act any question relating to a mine is referred to a Committee, the Committee shall consist of—

(*a*) a chairman nominated by the Local Government or by such officer or authority as the Local Government may direct;

(*b*) one or more persons qualified by experience to dispose of the question referred to the Committee and nominated by the chairman; and

(*c*) one or more persons equal in number to the person or persons nominated under clause (*b*) and nominated by the owner, agent, or manager of the mine concerned.

(*2*) The Inspector of Mines shall not serve as chairman or member of a Committee appointed under this section.

(*3*) No person employed in or in the management of the mine concerned shall serve as chairman or member of a Committee appointed under this section.

(*4*) Where an owner, agent or manager fails to exercise his power of nomination under sub-section (*1*), clause (*c*), the Committee may, notwithstanding such failure, proceed to inquire into and dispose of the matter referred to them.

(*5*) The Committee shall hear and record such information as the Chief Inspector or the Inspector of Mines, or the owner, agent or manager of the mine concerned may place before them, and shall intimate their decision to the Chief Inspector or the Inspector of Mines and to the owner, agent or manager of the mine concerned, and shall report their decision to the Local Government, or, where a Mining Board has been constituted, to the Local Government through the Mining Board.

(*6*) On receiving such report the Local Government may, if the Inspector of Mines, or the owner, agent or manager, has lodged an objection to the decision of the Committee, proceed to review such decision and to pass such orders in the matter as it may think fit.

(*7*) The Local Government may give directions as to the remuneration (if any) to be paid to the members of the Committee or any of them, and as to payment of the expenses of the inquiry, including such remuneration.

Powers of Mining Boards and Committees.

11. (*1*) A Mining Board constituted under section 9 or a Committee appointed under section 10 may exercise such of the powers of an Inspector of Mines as they may think it necessary or expedient to exercise for the purpose of deciding or reporting upon any matter referred to them.

(*2*) A Mining Board constituted under section 9 or a Committee appointed under section 10 shall have the powers of a Civil Court for the purpose of enforcing the attendance of witnesses and compelling the production of documents; and every person required by any such Committee to furnish information before it shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.[1]

XLV of 1860.

12. When the Local Government directs that the expenses of any inquiry conducted by a Mining Board constituted under section 9 or by a Committee appointed under section 10 are to be borne in whole or in part by the owner, agent or manager of the mine concerned, the amount so directed to be paid may be recovered on application by the Chief Inspector or the Inspector of Mines to a Magistrate having jurisdiction at the place where the mine is situate or where such owner, agent or manager is for the time being resident by the distress and sale of any moveable property within the limits of the Magistrate's jurisdiction belonging to such owner, agent or manager.

Recovery of expenses.

Mining Operations and Duties and Responsibilities of Owners, Agents and Managers.

13. (*1*) For every mine there shall be a manager, who shall have the prescribed qualifications.

Managers.

(*2*) The manager shall be responsible for the superintendence of all parts of the mine.

14. (*1*) The owner, agent and manager of every mine shall be responsible that all operations carried on in connection therewith are conducted in accordance with the provisions of this Act and the rules and orders made thereunder.

Duties and responsibilities of owners, agents and managers.

(*2*) In the event of any contravention of, or failure to comply with any such provisions on the part of any person whomsoever, the owner, agent and manager shall each be liable to be found guilty of an offence against this Act, unless he proves that he had taken all reasonable means, by publishing and to the best of his power enforcing the said provisions, to prevent such contravention or non-compliance, and that such contravention or non-compliance occurred without his consent.

15. (*1*) If, in any respect which is not provided against by any express provision of this Act, or of the rules or orders made thereunder, the Chief Inspector or any Inspector of Mines finds that any mine, or any part thereof,

Powers of Inspector when causes of danger not expressly

[1] *See* the revised edition as modified up to 1st April, 1903.

provided against exist or when employment of women or children is dangerous.

or any matter, thing or practice in or connected with the mine, or with the control, management or direction thereof, is dangerous to human life or safety, or defective so as to threaten, or tend to, the bodily injury of any person, he may give notice in writing thereof to the owner, agent or manager of the mine, and shall state in the notice the particulars in which he considers the mine, or part thereof, or the matter, thing or practice, to be dangerous or defective, and require the same to be remedied.

(*2*) If, for reasons to be recorded in the order, the Chief Inspector or the Inspector of Mines is of opinion that there is urgent and immediate danger to the life or safety of women or children employed in or at any mine, he may, by order in writing, prohibit the employment of such women and children.

(*3*) The Chief Inspector or the Inspector giving notice under sub-section (*1*) or making an order under sub-section (*2*), shall forthwith report the same to the Mining Board, or, where there is no Mining Board, to such officer[1] or authority as the Local Government may by general or special order appoint in this behalf.

(*4*) If the owner, agent or manager of the mine objects to remedy the matter complained of in a notice under sub-section (*1*) or to comply with an order made under sub-section (*2*), he may within twenty days after the receipt of the notice or order send his objection in writing, stating the grounds thereof, to the Board or other authority to which the Inspector's report is made under sub-section (*3*).

(*5*) On receiving an objection made under sub-section (*4*), the said Board or other authority shall refer the matter to a Committee.

(*6*) In case objection is taken to an order made under sub-section (*2*), the order shall be complied with until the decision of the Committee is received at the mine.

(*7*) Nothing in this section shall affect the powers of a Magistrate under section 144 of the Code of Criminal Procedure, 1898.[2] V of 1898.

Notice to be given of mining operations.

16. The owner, agent or manager of a mine shall, in the case of existing mines within three months after the commencement of this Act, and in the case of new mines within three months after the commencement of mining operations, give notice in writing to the Inspector of Mines appointed under section 4, sub-section (*2*), for the local area in which the mine is

[1] In Madras, to the District Collector, *see* Fort St. George Gazette, 1901, Pt. I, p. 1192.
[2] *See* the revised edition as modified up to 1st April, 1903.

situate, or for the group or class of mines to which the mine belongs, or, if no Inspector of Mines has been appointed for such area or group or class of mines to the Chief Inspector of Mines, of the address to which he desires his letters to be directed, the kind of minerals worked or to be worked, the name of the person under whom the mining operations are or are to be conducted, and the nature of the moving power which is or is to be used.

Notice to be given of accidents.

17. When any accidental explosion occurs in a mine, or when any accident occurs in or at a mine, causing loss of life or serious bodily injury, the owner, agent or manager of the mine shall give such notice of the explosion or accident to such authorities in such form, and within such time, as may be prescribed.

Power for the Government to order formal inquiry into accidents.

18. (*1*) When in or at any mine an explosion or other accident has occurred, if it appears to the Governor General in Council or the Local Government that a formal inquiry into the causes of, and circumstances attending, the accident ought to be held, the Governor General in Council or the Local Government may give directions accordingly, and may appoint a competent person to hold the inquiry, and may also appoint any person or persons possessing legal or special knowledge to act as assessor or assessors in holding the inquiry.

(*2*) The person or persons so appointed shall have all the powers of a Civil Court for the purpose of enforcing the attendance of witnesses and compelling the production of documents; and every person required by such person or persons as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.[1]

XLV of 1860.

(*3*) The person or persons holding an inquiry under this section may exercise such of the powers of an Inspector of Mines as he or they may think it necessary or expedient to exercise for the purposes of such inquiry.

(*4*) The person or persons holding an inquiry under this section shall make a report to the Local Government, stating the causes of the accident and its circumstances, and adding any observations which he or they may think fit to make.

Publication of reports.

19. The Local Government may cause any report submitted under section 15 or section 18 to be published at such time and in such manner as it may think fit.

Rules.

Power for Government

20. (*1*) The Governor General in Council may, for the whole or any

[1] *See* the revised edition as modified up to 1st April 1903.

to make rules.

part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may, for the whole or any part of the Province, by notification in the Gazette of India or the local official Gazette, as the case may be, make rules for carrying out the purposes and objects of this Act in respect of all mines or any groups or classes of mines.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) regulate the duties and powers of the Chief Inspector and of Inspectors of Mines in respect of the inspection of mines under this Act, and provide for appeals from the orders of the Chief Inspector and Inspectors of Mines;

(*b*) provide for the appointment of chairmen and members of Mining Boards and committees and regulate the procedure of such Boards and committees;

(*c*) prescribe the duties of owners, agents and managers of mines and of all persons acting under them;

(*d*) prescribe the qualifications of managers and of all persons acting under them;

(*e*) regulate the manner of ascertaining, by examination or otherwise, the qualifications of managers and persons acting under them, and the granting and renewal of certificates of competency;

(*f*) fix the fees (if any) to be paid in respect of such examinations and the grant and renewal of certificates as aforesaid;

(*g*) provide for the making of inquiries into charges of misconduct or incompetency on the part of managers and persons acting under them, and for the suspension and cancellation of certificates of competency;

[1] (*h*) prescribe the matters in respect of which notices, returns and reports shall be furnished by owners, agents and managers, the forms of such notices, returns and reports, the persons and authorities to whom they are to be furnished and the particulars to be contained in them;

(*i*) prescribe the plans (if any) to be kept by owners, agents and managers, and the manner and places in which they are to be kept for purposes of record;

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[1] For rules prescribing the authority to whom, the form in which and the time within which notices under s. 17 shall be given, *see* Gazette of India, 1901, Pt. I, p. 1057.

(*j*) regulate, subject to the provisions of the Indian Explosives Act, 1884,[1] and the rules thereunder, the storage and use of explosives;

IV of 1884.

(*k*) provide for the safety of the persons employed in mines, their means of entrance thereinto and exit therefrom, the number of shafts or outlets to be furnished, the fencing of shafts, outlets and passages, and the care of all machinery;

(*l*) prohibit, restrict or regulate the employment of women or children either below ground or on particular kinds of labour where such employment is attended by danger to the life, safety or health of such women or children;

(*m*) require owners or agents to maintain registers of women and children employed, and prescribe the forms of such registers;

(*n*) provide for the water-supply, sanitation and conservancy of mines;

(*o*) provide for the safety of the roads and working places in mines;

(*p*) provide for the ventilation of mines and the action to be taken in respect of noxious gases;

(*q*) require and regulate the use of safety lamps in mines;

(*r*) provide against the accumulation of water in mines;

(*s*) regulate the procedure on the occurrence of accidents in mines and the supply of medical appliances and comforts for the benefit of persons injured therein;

(*t*) provide for the fencing of any mine or part of a mine, whether the same is being worked or not, where such fencing is necessary for the protection of the public;

(*u*) provide for the protection of public property and works from injury in respect of any mine when the workings are discontinued; and

(*v*) prescribe the notice to be given by the owner, agent or manager of a mine before extending any mining operations under his control at or to any point within fifty yards of any railway subject to the provisions of the Indian Railways Act, 1890,[2] or of any public works or classes of public works which the Local Government may, by general or special order, specify in this behalf.

X of 1890.

(*3*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(*4*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897,[3] as that after which a draft of rules proposed

X of 1897.

[1] General Acts, Vol. IV.
[2] *See* the revised edition of the Act as modified up to 1st April, 1903.
[3] General Acts, Vol. VI.

to be made under this section will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(*5*) Where a Mining Board has been constituted under section 9, any rule to be made under this Act shall, before it is published for criticism under sub-section (*3*), be referred to the Mining Board, and the rule shall not be so published until the said Board has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

(*6*) All rules made under this section shall be published in the Gazette of India or in the local official Gazette, as the case may be, and, on such publication, shall have effect as if enacted in this Act.

Power for owners, etc., to make special rules.

21. (*1*) The owner, agent or manager of a mine may frame and transmit to the Inspector of Mines or, when there is no Inspector for the local area in which the mine is situate or the group or class to which the mine belongs, to the Chief Inspector, a draft of such special rules, not being inconsistent with this Act or any rules for the time being in force under section 20, for the control and guidance of the persons acting in the management of, or employed in or about, the mine as he may deem necessary to prevent accidents and provide for the safety, convenience and discipline of the persons employed in or about the mine.

(*2*) If any such owner, agent or manager—

(*a*) fails within a period of two months after the receipt of a notice from the Inspector or Chief Inspector to transmit a draft of such special rules as are referred to in sub-section (*1*), or

(*b*) submits a draft of such special rules as aforesaid, which is not in the opinion of the Inspector or Chief Inspector sufficient,

the Inspector or Chief Inspector may either—

(*i*) propose a draft of such special rules as appear to him to be sufficient, or

(*ii*) propose such amendments in the draft submitted to him by the owner, agent or manager as will, in his opinion, render them sufficient,

and shall send such draft rules or draft amendments to the owner, agent or manager for consideration.

(*3*) If within a period of two months from the date on which any draft rules or draft amendments are sent by the Inspector or Chief Inspector to the owner, agent or manager of a mine under the provisions of sub-section (*2*), the Inspector or Chief Inspector and the owner, agent or manager are unable

to agree as to the terms of the special rules to be made under sub-section (*1*) or as to the terms of any of such rules, the said Inspector or Chief Inspector shall refer the draft rules for settlement to the Mining Board or, where there is no Mining Board, to such officer [1] or authority as the Local Government may, by general or special order, appoint in this behalf.

(*4*) A copy of the draft rules as agreed to by the owner, agent or manager and the Inspector or Chief Inspector, or, when they are unable to agree, as settled by the Mining Board or such officer or authority as aforesaid, shall, together with a notice intimating that any objection or suggestion in respect thereof may be submitted in writing by any person employed in the mine to the said Inspector or Chief Inspector for consideration, be posted up for not less than thirty days in legible characters in English and in the vernacular of the district in some conspicuous place in the mine for the information of the persons employed therein, and a certificate to the effect that this has been done signed by the owner, agent or manager of the mine shall be transmitted to the said Inspector or Chief Inspector, together with two copies of the draft rules.

(*5*) When the publication required by sub-section (*4*) has been carried out, the Inspector or Chief Inspector shall forward a copy of the draft rules so published, together with a copy of any objections or suggestions in respect thereof received by him, to the Local Government.

(*6*) The special rules, when approved by the Local Government, with such modifications (if any) as it may think fit, shall be published in like manner as is provided in sub-section (*4*) respecting the publication of the draft, and, on such publication, shall have effect as if enacted in this Act:

Provided that the Local Government may at any time, by order in writing, which shall be published in like manner as aforesaid, rescind, in whole or in part, any rules so made, and that thereupon such rules shall cease to have effect accordingly.

Penalties.

22. (*1*) Whoever—

Penalties for offences.

(*a*) obstructs the Chief Inspector or an Inspector of Mines in the discharge of his duties under this Act, or refuses or wilfully neglects to furnish him with the means necessary for making any entry, inspection, examination or inquiry thereunder in relation to any mine; or

(*b*) counterfeits, or knowingly makes a false statement in, any certificate or in any official copy of a certificate granted under this Act; or

[1] In Madras, to the District Collector—*see* Fort St. George Gazette, 1901, Pt. I, p. 1162.

(*c*) knowingly uses as true any such counterfeit or false certificate; or

(*d*) makes or produces or uses any false declaration, statement or evidence knowing the same to be false for the purpose of obtaining, for himself or for any other person, a certificate or the renewal of a certificate, or any employment under this Act; or

(*e*) contravenes any provision of this Act or any rule or order thereunder for the breach of which no penalty is otherwise provided, where the act done has resulted in loss of life or serious bodily injury to any person;

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*2*) Whoever—

(*a*) falsifies any plan or register or record required to be maintained by or under this Act; or

(*b*) being the owner, agent or manager of a mine, omits to give the prescribed notice of an accident in the mine or to make or furnish any prescribed plans or returns; or

(*c*) makes, gives or delivers any such plan, register, record, notice or return containing a statement, entry or detail which is not, to the best of his knowledge or belief, true;

shall be punishable with fine which may extend to five hundred rupees.

(*3*) Whoever—

(*a*) employs or allows to be employed in or about a mine, or allows to enter a mine or part of a mine, any person in contravention of any provision of this Act or of any rule or order thereunder; or

(*b*) allows any person to perform any work forbidden by, or to work in contravention of, any such provision; or

(*c*) fails to comply with any requisition or order made under any such provision; or

(*d*) being the owner, agent or manager of a mine, fails to maintain correctly, or to produce, any prescribed plan; or

(*e*) contravenes any provision of this Act or any rule or order thereunder for the breach of which no penalty is otherwise provided;

shall be punishable with fine which may extend to two hundred rupees, and, in the case of a continuing breach under clause (*c*) of this sub-section, with a further fine which may extend to fifty rupees for every day during which the breach is proved to have been persisted in after the date of the receipt by him of the order or requisition referred to in such clause.

Miscellaneous.

23. No prosecution shall be instituted against any owner; agent or manager for any offence against this Act or any rule or order thereunder except at the instance of the Chief Inspector or an Inspector of Mines. Prosecution of owner, agent or manager.

24. No Court shall take cognizance of any offence against this Act or any rule or order thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed. Limitation of prosecutions.

25. No Court inferior to that of a Magistrate of the first class or Subdivisional Magistrate shall try any offence against this Act or any rule or order thereunder which is alleged to have been committed by any owner, agent or manager of a mine or any offence which is punishable with imprisonment. Cognizance of offences.

26. If the Court trying any case instituted on the complaint of the Chief Inspector or an Inspector of Mines under this Act is of opinion that the case is one which should, in lieu of a prosecution, be referred to a Mining Board or a Committee, it may stay the criminal proceedings, and report the matter to the Local Government with a view to such reference being made. Reference to Mining Board or Committee in lieu of prosecution in certain cases.

27. If any question arises as to whether any excavation or working is a mine within the meaning of this Act, the Local Government may decide the question, and a certificate, signed by a Secretary to the Local Government, shall be conclusive on the point. Decision of question whether a mine is under this Act.

28. If in any inquiry or proceeding under this Act it is necessary to decide the question whether a person is or is not under the age of twelve years, a certificate in writing, signed by a duly qualified person practising medicine or surgery, who states that he has examined such person, and that the age of such person, as nearly as can be ascertained from such examination, is or is not under twelve years, shall be received as *primâ facie* evidence of the age of such person. Evidence of age.

29. The Governor General in Council may, by [1] notification in the Gazette of India, and subject to such limitations and conditions as may seem to him expedient, exempt from the operation of the whole or any part of this Act any local area,[2] or any mine or group or class of mines, or any class of persons. Power to exempt from operation of Act.

30. The Governor General in Council or any Local Government shall have authority to reverse or modify any order passed under this Act by any authority subject to his or its control. Power to alter or rescind orders.

31. This Act shall apply to mines belonging to the Crown. Application of Act to Crown mines.

[1] For list of notifications exempting certain quarries being mines from the operation of the Act, *see* List of General Rules and Orders, Ed. 1902, p. 116.

[2] For notification affecting certain districts in the North-West Frontier Province, *see* Gazette of India, 1902, Pt. I, p. 329.

Exercise of power by Governor General in Council.

32. The Governor General in Council may, if he thinks fit, exercise any power which is by this Act conferred upon a Local Government.

33. [*Bar of prosecutions for certain offences committed within one year of commencement of Act.—Spent.*]

ACT No. IX OF 1901.[1]

[*11th October, 1901.*]

An Act further to amend the Indian Articles of War.

WHEREAS it is expedient further to amend the Indian Articles of War[2]; V of 1869.
It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Articles of War Amendment Act, 1901; and

It shall come into force at once.

Amendment of article 4, Act V, 1869.

2. To article 4, sub-article (*1*), clause (*b*), of the said Indian Articles of War, the following proviso shall be added, namely:— V of 1869.

"Provided that, if he is dismissed or discharged by order of an officer not subject to the authority of the Governor General in Council or of the Commander-in-Chief in India, such dismissal or discharge shall not take effect until it has been approved by the Governor General in Council or by the Commander-in-Chief in India, or, if he belongs to a command but is serving with a force not attached to a command, by the general officer of the command to which he belongs."

ACT No. X OF 1901.[3]

[*11th October, 1901.*]

An Act further to amend the Court-fees Act, 1870.

WHEREAS it is expedient further to amend the Court-fees Act, 1870[4]; It is VII of 1870.
hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Court-fees (Amendment) Act, 1901; and

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 99; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 213 and 217.

The Act has been declared in force in the Santhal Parganas, by notification under s. 3 of the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), as modified up to 1st October, 1899, *see* Calcutta Gazette, 1902, Pt. I, p. 310.

[2] General Acts, Vol. I.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 101; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 214 and 218.

The Act has been declared in force in the Santhal Parganas, by notification under s. 3 of the Sonthal Parganas Settlement Regulation, 1872 (III of 1872), as modified up to 1st October 1899—*see* Calcutta Gazette, 1902, Pt. I, p. 310.

[4] General Acts, Vol. II.

(2) It shall come into force at once.

VII of 1870. 2. After section 1 of the Court-fees Act, 1870,[1] the following section shall be added, namely :— Addition of new section after section 1, Act VII, 1870.

"2. In this Act, unless there is anything repugnant in the subject or context, 'Chief Controlling Revenue-authority' means— "Chief Controlling Revenue-authority" defined.

(a) in the Presidency of Fort St. George and the territories respectively under the administration of the Lieutenant-Governors of Bengal and the [2] North-Western Provinces and the Chief Commissioner of Oudh—the Board of Revenue;

(b) in the Presidency of Bombay, outside Sindh and the limits of the town of Bombay—a Revenue Commissioner;

(c) in Sindh—the Commissioner;

(d) in the Punjab and Burma, including Upper Burma—the Financial Commissioner; and

(e) [3] elsewhere—the Local Government or such officer as the Local Government may, by notification in the official Gazette, appoint in this behalf."

3. (1) In sections 19-A and 19-E of the said Act, for the words "of the Province" the words "for the local area" shall be substituted. Amendment of sections 19-A, 19-E and 19-H, Act VII, 1870.

(2) In section 19-H, sub-section (2), of the said Act, for the same words the words "for the local area in which the High Court is situated" shall be substituted.

ACT No. XI of 1901.[4]

[25th October, 1901.]

An Act to facilitate the citation of certain enactments and to amend and repeal certain obsolete enactments.

Whereas it is expedient to facilitate the citation of the enactments specified in the First Schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the Second Schedule to this Act;

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[1] General Acts, Vol. II.

[2] Read now the Lieutenant Governor of the United Provinces of Agra and Oudh, *see* s. 2 of the United Provinces (Designation) Act, 1902 (VII of 1902), *infra*, p. 201.

[3] As to the North-West Frontier Province, *see* s. 6 (1) (d) of the North-West Frontier Province Law and Justice Regulation, 1901 (VII of 1901), Punjab Code, Ed. 1903.

[4] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 117; for Proceedings in Council, *see ibid*, 1901, Pt. VI, pp. 218 and 219.

[1] * * * * * * * *

It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the [1] * * Amending Act, 1901; and

(*2*) It shall come into force at once.

Citation of certain enactments.

2. Each of the enactments specified in the first three columns of the First Schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Enactments amended and enactments repealed.

3. (*1*) The enactments specified in the Second Schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

[1] * * * * * * * * *

4. [*Savings.*] *Rep. by the Repealing and Amending Act, 1903 (I of 1903).*

THE FIRST SCHEDULE.

CITATION OF ENACTMENTS.

(*See section 2.*)

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations.	
1802	III	A Regulation for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adalat established in the several Zillas immediately subject to the Presidency of Fort St. George.	The Madras Administration of Estates Regulation, 1802.
"	XIX	A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue, lending money to Zamindars, independent Taluqdars or other actual Proprietors of land, or dependent Taluqdars or Farmers of land, holding farms immediately of Government; or the Under-farmers or Raiyats of the several descriptions of Proprietors and Farmers of land above-mentioned, or their respective sureties.	The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802.

[1] The last paragraph of the preamble the words "Repealing and" and sub-section (2) of section 3 were repealed by the Repealing and Amending Act, 1903 (I of 1903).

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations.—contd.	
1802	XXV	A Regulation for declaring the proprietary right of lands to be vested in individual persons, and for defining the rights of such persons, under the permanent assessment of the land-revenue in the British territories subject to the Presidency of Fort St. George.	The Madras Permanent Settlement Regulation, 1802.
"	XXVI	A Regulation for governing the sale and sub-division of malguzari lands in the British territories subject to the Presidency of Fort St. George.	The Madras Land-registration Regulation, 1802.
"	XXIX	A Regulation for establishing the office of Karnam, and defining the duties of the said office, in the British territories subject to the Presidency of Fort St. George.	The Madras Karnams Regulation, 1802.
1803	I	A Regulation for defining the duties of the Board of Revenue, and for determining the extent of the powers vested in the Board of Revenue.	The Madras Board of Revenue Regulation, 1803.
"	II	A Regulation for describing and determining the conduct to be observed by Collectors in certain cases.	The Madras Collector's Regulation, 1803.
1804	V	A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the rules under which those powers are to be exercised.	The Madras Court of Wards Regulation, 1804.
1808	VII	A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State, by the sentence of Courts-martial.	The Madras State Offences Regulation, 1808.
1816	I	A Regulation for declaring the contributions hitherto paid in the Province of Tanjore on account of the Kavali Police, appropriable to the support of the new Police established, or to be established, in that Province, and for regulating the collection and assessment of those contributions.	The Tanjore Police Regulation, 1816.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—contd.	
1816	V	A Regulation for authorising Village Munsifs to assemble Village Panchayats for the adjudication of civil suits for sums of money or other personal property, without limitation as to amount or value, within their respective jurisdictions, and for defining the powers and authority to be vested in such Village Panchayats.	The Madras Village-panchayats Regulation, 1816.
"	XI	A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.	The Madras Village-police Regulation, 1816.
"	XII	A Regulation for authorising Collectors to refer claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary, as also certain disputes respecting the occupying, cultivating and irrigating of land to be tried and determined by Village and District Panchayats, and for prescribing the Rules under which the trial of such disputes shall be conducted and the decisions of the Panchayats carried into execution.	The Madras Village-lands Disputes Regulation, 1816.
1817	VII	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges or other public purposes, for the maintenance and repair of bridges, choultries or chattrams and other public buildings, and for the custody and disposal of escheats.	The Madras Endowments and Escheats Regulation, 1817.
"	VIII	A Regulation for expediting the trial of civil suits in which the Native officers and soldiers attached to regular Corps in the Madras Command may be parties, and for giving to them certain facilities in the maintenance and recovery of their rights, claims and interests.	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.
1819	II	A Regulation for the confinement of State Prisoners.	The Madras State Prisoners Regulation, 1819.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—contd.	
1821	IV	A Regulation for giving greater efficiency to the system of Police established in the provinces subordinate to the Presidency of Fort St. George.	The Madras Village-police Regulation, 1821.
1822	IV	A Regulation declaring the true intent and meaning of Regulation XXV of 1802 so far as it relates to the rights of the actual cultivators of the soil.	The Madras Permanent Settlement (Interpretation) Regulation, 1822.
"	VII	A Regulation for declaring that the appointment and removal of the Native Public Servants of Government shall be regulated by such orders as the Governor in Council may, from time to time, see fit to issue.	The Madras Native Public Officers Regulation, 1822.
"	IX	A Regulation for empowering Collectors to take primary cognizance of cases of malversation in revenue affairs, for prescribing the rules to be observed in such investigations and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collector's jurisdiction, and for providing for the admission and trial of Appeals from the summary decisions of Collectors in such cases.	The Madras Revenue Malversation Regulation, 1822.
1823	III	A Regulation for declaring the powers of Subordinate and Assistant Collectors in the execution of the provisions of Regulation IX of 1822.	The Madras Revenue Malversation (Amendment) Regulation, 1823.
1828	VII	A Regulation for declaring the powers of Subordinate and Assistant Collectors in charge of particular divisions of districts and for facilitating proceedings under Regulation IX of 1822.	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.
1829	V	A Regulation for modifying section 16, Regulation III, 1802, and for declaring the legal force of Wills left by Hindus within the territories subject to the Presidency of Fort St. George to be dependent on their conformity to the Hindu Law according to the Authorities prevalent in the respective Provinces under this Government.	The Madras Hindu Wills Regulation, 1829.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part I.—Madras Regulations—concld.	
1830	I	A Regulation for declaring the practice of Sati or of burning or burying alive the Widows of Hindus illegal and punishable by the Criminal Courts.	The Madras Sati Regulation, 1830.
1831	V	A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the stamp laws.	The Madras Stamp Penalties Regulation, 1831.
"	VI	A Regulation to prevent the misappropriation of the emoluments annexed by the State to hereditary village and other offices in the Revenue and Police Departments, and to maintain the due efficiency of those offices.	The Madras Hereditary Offices Regulation, 1831.
"	X	A Regulation to prohibit the sale of estates belonging to Minors not under the charge of the Court of Wards, and to extend the provisions of section 20, Regulation V, 1804, to property of every description not subject to the jurisdiction of that Court.	The Madras Sale of Minors Estates Regulation, 1831.
1832	III	A Regulation for limiting the period within which plaints or appeals preferred under section 16, Regulation IX, 1822, shall be admissible in the Courts of Adalat.	The Madras Revenue Malversation (Amendment) Regulation, 1832.
		Part II.—Acts of the Governor General in Council.	
1837	XXXVI	An Act to extend the application of Madras Regulations IX of 1822 and VII of 1828.	The Madras Public Property Malversation Act, 1837.
1839	VII	An Act to invest Tahsildars within the Presidency of Fort St. George with certain powers in respect of property distrained for arrears of rent or revenue.	The Madras Rent and Revenue Sales Act, 1839.
"	XXIV	An Act for the administration of justice and collection of the Revenue in certain parts of the Districts of Ganjam and Vizagapatam.	The Ganjam and Vizagapatam Act, 1839.
1840	VIII	An Act concerning the signing of awards by the members of Panchâyats.	The Madras Panchayâts Act, 1840.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part II.—Acts of the Governor General in Council—contd.	
1844	VI	An Act for the levy of inland customs-duties within the territories subject to the Government of Fort St. George.	The Madras Inland Customs Act, 1844.
1849	X	An Act for appointing a Commissioner of Revenue at Madras.	The Madras Revenue Commissioner Act, 1849.
1851	XII	An Act for securing the land-revenue of Madras.	The Madras City Land-revenue Act, 1851.
1854	XXIV	An Act to prohibit the possession of certain offensive weapons in Malabar.	The Malabar War-knives Act, 1854.
1855	XXI	An Act for making better provision for the education of male Minors and the marriage of male and female Minors subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.	The Madras Minors Act, 1855.
1857	VII	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.	The Madras Uncovenanted Officers Act, 1857.
"	XXVII	An Act to establish and incorporate an University at Madras.	The Madras University Act, 1857.
1858	I	An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.	The Madras Compulsory Labour Act, 1858.
1859	XX	An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.	The Moplah Outrages Act, 1859.
"	XXIV	An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.	The Madras District Police Act, 1859.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
		Part II.—Acts of the Governor General in Council—concld.	
1865	XXX	An Act to define and sanction the rates which the Madras Irrigation and Canal Company is authorized to charge for the supply of water for purposes other than that of irrigation.	The Madras Irrigation and Canal Company Act, 1865.
1877	XIX	An Act to enable certain District Judges to suspend and remove certain ministerial officers and for other purposes.	The Madras Civil Courts (Amendment) Act, 1877.
1882	XXI	An Act to remove doubts regarding the Madras Forest Act, 1882.	The Madras Forest (Validation) Act, 1882.
1884	II	An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.	The Madras Partition-deeds (Validation) Act, 1884.
1889	V	An Act to abolish the office of Coroner of Madras.	The Coroners (Madras) Act, 1889.
		Part III.—Acts of the Governor of Fort St. George in Council.	
1862	IV	An Act to exempt enfranchised inams from the operation of Regulation IV of 1831 and Acts XXXI of 1836 and XXIII of 1838.	The Madras Enfranchised Inams Act, 1862.
1864	II	An Act to consolidate the laws for the recovery of Arrears of Revenue in the Madras Presidency.	The Madras Revenue Recovery Act, 1864.
1865	I	An Act to provide for the alteration of the limits of Districts or Zilas in the Madras Presidency.	The Madras District Limits Act, 1865.
"	V	An Act to amend Act XXIV of 1859	The Madras District Police (Amendment) Act, 1865.
"	VI	An Act to enable the Governor in Council to direct and prescribe what official seals Collectors, Magistrates and other public officers shall have and use.	The Madras Official Seals Act, 1865.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Acts of the Governor of Fort St. George in Council—contd.			
1865	VII	An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.	The Madras Irrigation Cess Act, 1865.
"	VIII	An Act to consolidate and improve the laws which define the process to be taken for the recovery of rent.	The Madras Rent Recovery Act, 1865.
1866	II	An Act for the prevention of the spread of disease among Cattle in the Madras Presidency.	The Madras Cattle-disease Act, 1866.
"	IV	An Act to exempt enfranchised Village or other Service Inams, whether Revenue or Police, from the operation of Regulation VI of 1831.	The Madras Enfranchised Inams Act, 1866.
"	V	An Act to regulate the manner of engaging and contracting with Native inhabitants, within any of the districts subject to the Government of Fort St. George, for labour to be performed in any part of India beyond the territorial limits of the Presidency of Madras.	The Madras Labour and Emigration Act, 1866.
1867	VI	An Act to amend Act XII of 1851 (*an Act for securing the Land-revenue of Madras*).	The Madras City Land-revenue (Amendment) Act, 1867.
1869	III	An Act to empower Revenue-officers to summon persons to attend at their Kachahris for the settlement of matters connected with Revenue administration.	The Madras Revenue Summonses Act, 1869.
"	VIII	An Act to prevent doubts as to the true intent and meaning of certain words used in the title-deeds of inams heretofore furnished to inam-holders by the Inam Commissioner of the Madras Presidency, and to declare the true intent and meaning of Madras Acts IV of 1862 and IV of 1866.	The Madras Inams Act, 1869.
1871	II	An Act to declare the meaning of clause 4, section 11 of Madras Act VIII of 1865.	The Madras Rent Recovery (Amendment) Act, 1871.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Acts of the Governor of Fort St. George in Council—contd.			
1871	VII	An Act to amend Madras Act V of 1863 (*an Act to prevent damage to the Madras Pier, to regulate the traffic and to provide for the levying of tolls upon the same, and to provide for its extension to other piers.*)	The Madras Pier (Amendment) Act, 1871.
1873	I	An Act to prevent the indiscriminate destruction of wild Elephants.	The Madras Wild Elephants' Preservation Act, 1873.
1876	I	An Act to make better provision for the separate assessment of alienated portions of permanently settled estates.	The Madras Land-revenue Assessment Act, 1876.
1878	VII	An Act to provide for the payment from Municipal Funds of a portion of the cost of the Police Force employed in the City of Madras and in all Municipal Towns within the Presidency of Fort St. George.	The Madras Municipal Police Act, 1878.
1879	I	An Act to amend Madras Act II of 1866 (the Cattle-disease Prevention Act).	The Madras Cattle-disease (Amendment) Act, 1879.
1884	III	The Madras Revenue Recovery Act Amendment Act.	The Madras Revenue Recovery (Amendment) Act, 1884.
"	VII	An Act to amend Act I of 1884 (the City of Madras Municipal Act).	The Madras City Municipal (Amendment) Act, 1884.
1885	II	An Act to amend the Madras Rivers Conservancy Act, 1884.	The Madras Rivers Conservancy (Amendment) Act, 1885.
1886	III	An Act to amend Madras Act II of 1886.	The Madras Harbour Trust (Amendment) Act, 1886.
1890	III	An Act to amend the Madras Local Boards Act, 1884, and the Madras Rent Recovery Act, 1865.	The Madras Local Boards and Rent Recovery (Amendment) Act, 1890.
1892	I	An Act to amend Madras Act II of 1886 (the Madras Harbour Trust Act).	The Madras Harbour Trust (Amendment) Act, 1892.
"	II	An Act to amend Acts I and VII of 1884 (Madras).	The Madras City Municipal (Amendment) Act, 1892.

(*The First Schedule.*)

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Acts of the Governor of Fort St. George in Council—contd.			
1893	II	An Act to amend section 13 of the Land Customs Act, VI of 1844.	The Madras Inland Customs (Amendment) Act, 1893.
"	V	An Act for facilitating enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants.	The Madras Revenue Enquiries Act, 1893.
1894	I	An Act to provide further for the conduct of business by the Board of Revenue.	The Madras Board of Revenue Act, 1894.
1895	II	An Act to amend Madras Act II of 1890 .	The Madras Canals and Public Ferries (Amendment) Act, 1895.
1896	I	An Act to limit the local extent of the Madras Rent Recovery Act, VIII of 1865.	The Madras Rent Recovery (Amendment) Act, 1896.
"	II	An Act to amend the Madras General Clauses Act I of 1891.	The Madras General Clauses (Amendment) Act, 1896.
1897	I	An Act to amend the Madras Revenue Recovery Act II of 1864.	The Madras Revenue Recovery (Amendment) Act, 1897.
"	II	An Act to amend Madras Act No. III of 1895 (the Madras Hereditary Village-offices Act, 1895).	The Madras Hereditary Village offices (Amendment) Act, 1897.
1898	I	An Act to amend the Malabar Marriage Act, 1896.	The Malabar Marriage (Amendment) Act, 1898.
"	II	An Act to amend Madras Act II of 1886 (the Madras Harbour Trust Act).	The Madras Harbour Trust (Amendment) Act, 1898.
"	III	An Act to amend the Madras City Police Act, 1888.	The Madras City Police (Amendment) Act, 1898.
1899	I	An Act to amend Madras Act IV of 1884.	The Madras District Municipalities (Amendment) Act, 1899.
"	II	An Act to amend Madras Act I of 1884 .	The Madras City Municipal (Amendment) Act, 1899.
"	IV	An Act to amend Madras Regulation V of 1884.	The Madras Court of Wards (Amendment) Act, 1899.

THE FIRST SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Subject.	Short title.
Part III.—Acts of the Governor of Fort St. George in Council—concld.			
1900	III	An Act to amend the Madras Harbour Trust Act, 1885.	The Madras Harbour Trust (Amendment) Act, 1900.
"	IV	An Act to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Madras Survey and Boundaries Act, 1897.	The Madras Proprietary Estates and Survey (Amendment) Act, 1900.
"	V	An Act to amend Madras Act VII of 1865.	The Madras Irrigation Cess (Amendment) Act, 1900.

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

[*See section 3, sub-section* (*1*).]

1	2	3	4
Year.	No.	Short title.	Amendment.
Part I.—Madras Regulations.			
1802	XXVI	The Madras Land Registration Regulation, 1802.	In the title, *for the words* sale and subdivision of Málguzárí lands *substitute* registration of landed estates paying revenue to the Government. In the preamble, *omit the words from* Whereas it is necessary *to* such lands; and; *and for the words* such lands *substitute* landed estates paying revenue to the Government.
1817	VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.	For the title as amended by the repealing and amending (Army) Act, 1894, *substitute the following :* A Regulation for regulating the procedure where the estate of a native officer or soldier in the Madras Command becomes liable to sale for an arrear of revenue.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
		Part I.—Madras Regulations—contd.	
1822	IV	The Madras Permanent Settlement (Interpretation) Regulation, 1822.	In the title, *for the words and figures* Regulations XXV, XXVIII and XXX of 1802, so far as they relate, *read* Regulation XXV of 1802, so far as it relates. In section 2, *for the words and figures* Regulations XXV, XXVIII and XXX of 1802, *read* Regulation XXV of 1802.
1823	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.	For the title *substitute the following:* A Regulation to supplement the provisions of the Madras Revenue Malversation Regulation, 1822.
1829	V	The Madras Hindu Wills Regulation, 1829.	In the preamble, *for the words* clause second of the said section, *read* clause second of section 16 of the Madras Administration of Estates Regulation, 1802.
		Part II.—Acts of the Governor General in Council.	
1899	XIII	The Glanders and Farcy Act, 1899.	To section 2, sub-section (*1*), *add* either generally or in respect of any local area.
		Part III.—Acts of the Governor of Fort St. George in Council.	
1862	IV	The Madras Enfranchised Inams Act, 1862.	For the title, *substitute the following:* An Act to declare what shall be proof of the enfranchisement of inams.
1866	V	The Madras Labour and Emigration Act, 1866.	To Section 21 *add* But nothing in this Act shall apply to the emigration of labourers to any of the labour-districts in the Province of Assam from any local area to which the provisions of the Assam Labour and Emigration Act, 1901, for time being apply.
1884	V	The Madras Local Boards Act, 1884.	In section 3, clause (xiv), as substituted by section 5 of the Madras Local Boards Act Amendment Act, 1900, *for the figures* 1882, *substitute* 1898.

THE THIRD SCHEDULE.

ENACTMENTS REPEALED.

[*Rep. by the Repealing and Amending Act, 1903 (I of 1903).*]

THE CANTONMENTS (HOUSE-ACCOMMODATION) ACT, 1902 (II OF 1902).

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ACT No. II OF 1902.[1]

[*14th February, 1902.*]

An Act to make better provision for securing house-accommodation for military officers in cantonments.

WHEREAS various conditions, rules, regulations and orders have from time to time been laid down by, or by the authority of, the Government, in regard to the grant of land and the occupation of land and houses in cantonments, with the object of securing, amongst other things, that houses built on such land should be made available when required for the accommodation of military officers;

And whereas, notwithstanding the said conditions, rules, regulations and orders, difficulties have frequently been experienced in obtaining house-accommodation in cantonments for military officers, and it is expedient to make better provision for that purpose;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Cantonments (House-Accommodation) Act, 1902.

(*2*) It extends to the whole of British India (inclusive of British Baluchistan), except Aden ; and

(*3*) It shall come into force at once, but it shall not become operative in any cantonment or part of a cantonment until the issue, or otherwise than in pursuance, of a notification as hereinafter provided by section 3.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Cantonment Authority" means a Cantonment Committee, or, in the case of a cantonment for which such a Committee has not been constituted, or has ceased to exist, or cannot be convened, the Commanding Officer of the cantonment:

(*b*) "Command" means one of the principal portions into which the army of India is for the time being divided:

(*c*) "General Officer of the Command" means the General Officer commanding the forces in a Command:

(*d*) "house" means a house suitable for occupation by a military officer and includes the land and buildings appurtenant to such house:

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1898, Pt. V, p. 364; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 9; for Proceedings in Council, *see ibid*, 1898, Pt. VI, p. 395; *ibid*, 1901, p. 220; *ibid*, 1902, Pt. VI, pp. 2 and 112.

(*e*) "military officer" means a commissioned or warrant officer of His Majesty's regular forces on military duty in a cantonment, and includes a Chaplain, a Cantonment Magistrate and any person in Army departmental employment whom the General Officer of the Command may at any time, for the purposes of this Act, place on the same footing as a military officer:

(*f*) "owner" includes the person who is receiving, or is entitled to receive, the rent of a house, whether on his own account or on behalf of himself and others or as an agent or trustee, or who would so receive the rent, or be entitled to receive it, if the house were let to a tenant: and

(*g*) the expression "repairs" to a house includes such repairs as are usually made to houses in the neighbourhood, but does not include additions, improvements or alterations, except in so far as they are necessary to carry out such repairs as aforesaid or have been made with the owner's consent.

(*2*) If any question arises whether any land or building is appurtenant to a house, it shall be decided by the Cantonment Magistrate, whose decision thereon shall, subject to revision by the District Magistrate, be final.

CHAPTER II.

APPLICATION OF ACT.[1]

Cantonments or parts of cantonments in which Act to be operative.

3. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by [1] notification in the local official Gazette, declare this Act to be operative in any cantonment or part of a cantonment situate in the territories under its administration, other than a cantonment situate within the limits of a Presidency-town.

(*2*) Before issuing a notification under sub-section (*1*) in respect of any cantonment or part of a cantonment, the Local Government shall cause local inquiry to be made with a view to determining whether it is expedient to

[1] For notification by the (*1*) Government of Bombay in respect of the Belgaum and Ahmedabad Cantonments, *see* Bombay Government Gazette, 1902, Pt. I, p. 2044, and *ibid*, 1903, Pt. I, p. 887; the Ahmednagar Cantonment in the same Presidency, see *ibid* 1903, Pt. I, p. 1337; (*2*) Chief Commissioner, Ajmer-Merwara, in respect of the Nasirabad Cantonment except the area owned by the European and American Mission Associations, *see* Gazette of India, 1903, Pt II, p. 587; and (*3*) Chief Commissioner, Central Provinces, in respect of the Cantonment of Kamptee, *see* Central Provinces Gazette, 1903, Pt. III, p. 165; (*4*) the Lieutenant Governor of the United Provinces of Agra and Oudh, in respect of the Cantonments of Lucknow, Sitapore, Muttra, Chakrata, Roorki, Lansdowne, Jhansi and Meerut, *see* United Provinces Gazette, 1903, Pt. I, p. 789; as to Fyzabad and a portion of the Agra Cantonment, *see ibid*, Pt. I, p. 899; (*5*) the Government of Bengal with respect to the Dinapore Cantonment, *see* Calcutta Gazette, 1903, Pt. I, p. 1365; (*6*) Madras, with respect to part of the Trichinopoly Cantonment, *see* Fort St. George Gazette, 1903, Pt. I, p. 1226.

For notification by the Government of India under the Indian (Foreign Jurisdiction) Order in Council, 1902, in respect of the Cantonment of Secunderabad, *see* Gazette of India, 1903, Pt. I, p. 679.

issue such notification and what portion (if any) of the area proposed to be included therein should be excluded therefrom.

Saving of written instruments.

4. Nothing in this Act shall affect the provisions of any written instrument executed by or on behalf of the East India Company or the Government, unless the other party entitled and the Secretary of State for India in Council consent in writing to be bound by the terms of this Act.

CHAPTER III.

APPROPRIATION OF HOUSES FOR OCCUPATION BY MILITARY OFFICERS.

Liability of houses to appropriation for occupation by military officers.

5. Every house situate in a cantonment or part of a cantonment in respect of which a notification under section 3, sub-section (*1*), is for the time being in force, shall be liable, subject to the provisions hereinafter contained, to appropriation at any time for occupation by a military officer.

Appropriation of house for military officer, where not already occupied by a military officer.

6. Where the Cantonment Authority, on application made to it as hereinafter provided by section 8 and subject to the requirements of that section, considers that the liability imposed by section 5 should be enforced on behalf of a military officer, it may, if the house is not already occupied by a military officer, by notice—

(*a*) require the owner to let the house to the military officer named in the notice, and

(*b*) require the existing occupier (if any) to vacate the same.

Appropriation of house for regimental military officer, where already occupied by departmental military officer.

7. If a house is already occupied by a departmental military officer, and the Cantonment Authority, on application made to it as hereinafter provided by section 8 and subject to the requirements of that section, considers that the liability imposed by section 5 should be enforced on behalf of a regimental officer, or *vice versâ*, it may, by notice, require the officer in occupation to vacate the house; and may, if necessary, by further notice require the owner to accept the change of tenancy.

Procedure to be observed before appropriating house.

8. (*1*) Where a military officer considers that a notice should be issued in his behalf under section 6 or section 7, as the case may be, he may request the Commanding Officer of his regiment, or (in the case of a departmental military officer) the local head of his department, to make an application to that effect to the Cantonment Authority.

(*2*) On receipt of an application made under sub-section (*1*), the Cantonment Authority shall inquire into the case, and it shall not issue the notice applied for unless it is satisfied—

(*a*) that it is necessary or expedient for the military officer to reside in the cantonment, or, if this Act is in force in part of the cantonment only, then in that part;

(*b*) that the circumstances are such as to require its intervention ;

(*c*) that the monthly rent proposed for the house is reasonable ; and

(*d*) that the house is suitable for the residence of the officer and, if it is occupied, that there is no vacant house in the cantonment or the said part of the cantonment, as the case may be, which is suitable for his residence.

Explanation I.—Where the rent of a house is registered in the office of the Cantonment Authority, the rent so registered shall be presumed, until the contrary is shown, to be the reasonable rent for the house.

Explanation II.—In considering whether a house is suitable for the residence of a military officer, regard shall be had to—

(*i*) the locality in which his duties chiefly lie,

(*ii*) his rank, and

(*iii*) the number of persons dependent upon, and residing with, him.

Notice to state that reasonable rent is offered.

9. Every notice to an owner issued under section 6 or section 7 shall state the amount of monthly rent proposed as reasonable for the house.

Sanction to be obtained before a house is occupied as a hospital, bank, hotel, shop or school, or by a railway administration.

10. (*1*) No house in any cantonment or part of a cantonment in which this Act has been declared by a notification under section 3, sub-section (*1*), to be operative shall, unless it was so occupied at the date of such notification, be occupied for the purposes of a hospital, bank, hotel, shop or school, or by a railway administration, without the previous sanction of the General Officer of the Command, given with the concurrence of the Local Government.

(*2*) Before application is made for such sanction as aforesaid, the Commanding Officer of the cantonment shall certify whether or not in his opinion the number of houses in the cantonment, as compared with the strength of the existing or probable garrison, renders it likely that such occupation as aforesaid would—

(*a*) cause any difficulty in obtaining accommodation in the cantonment, or in the part of the cantonment in which the house is situate, for military officers, or

(*b*) necessitate the acquisition of land at some future time for the extension of the cantonment.

Houses not to be appropriated for military

11. No notice shall be issued under section 6, if the house—

(*a*) was occupied prior to the date of a notification under section 3, sub-section (*1*), declaring the Act to be operative in the cantonment

officers in certain cases.

or part of the cantonment, or is occupied with the sanction required by section 10, as a hospital, bank, hotel, shop or school, and has been so occupied continuously during the three years immediately preceding the time when the occasion for issuing the notice arises, or

(*b*) was occupied prior to the date of such a notification as is referred to in clause (*a*), or is occupied, with the sanction aforesaid, by a railway administration, or

(*c*) is occupied by the owner, or

(*d*) is appropriated by the Local Government, with the concurrence of the General Officer of the Command, or by the Governor General in Council, for use as a public office or for any other purpose.

Time to be allowed for giving possession of house.

12. (*1*) If a house is unoccupied, a notice issued under section 6 may require the owner to give possession of the same to the proposed tenant within four days from the service of the notice.

(*2*) If a house is occupied, a notice issued under section 6 or section 7 shall not require its vacation in less than thirty days from the service of the notice.

Surrender of house when to be enforced.

13. If the owner fails to give possession of a house to the proposed tenants in pursuance of a notice issued under section 6 or section 7, or if the existing occupier fails to vacate a house in pursuance of such a notice, the Cantonment Magistrate, by himself or by another person generally or specially authorized by him in this behalf, shall enter on the premises and enforce the surrender of the house.

Option in certain cases for owner on whom notice is issued under section 6 or section 7 to call upon the military officer concerned or the Government to purchase.

14. (*1*) If a house in respect of which a notice is issued under section 6 or section 7 is shown to the satisfaction of the Local Government, or is proved by a decree or order of a Court of competent jurisdiction, to have been erected—

(*a*) under any conditions, rules, regulations or orders which were in force in Bengal prior to the eighth day of December, 1864, and conferred on the owner the option of offering the house for sale to the military officer applying for its appropriation for his occupation or to the East India Company or the Government, or

(*b*) under any conditions, rules, regulations or orders which were in force in Bombay prior to the first day of June, 1875, and conferred such an option as is described in clause (*a*),

then the owner shall have the option of either complying with the notice or

offering the house for sale to the military officer in whose behalf the notice was issued, or to the Government.

(*2*) If the owner elects to sell the house, and such military officer or the Government is willing to purchase it, the amount of the purchase-money to be paid shall, in the event of disagreement, be determined by a Committee of Arbitration.

Provision where tenant required to vacate holds under a long lease.

15. (*1*) If a house is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, or from year to year, no notice shall be issued under section 6 or section 7 without the previous sanction of the Officer Commanding the District.

(*2*) If a house, in respect of which a notice is issued under section 6 or section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease for any term exceeding one year, the Secretary of State for India in Council shall, for the term of one year from the date on which the house is vacated in pursuance of the notice, or for the unexpired term of the lease, whichever is the shorter, be liable to the owner for the rent payable under this Act or, if no rent is so payable, for the rent fixed by the registered lease.

(*3*) If a house, in respect of which a notice is issued under section 6 or section 7, is occupied by a tenant holding in good faith and for valuable consideration under a registered lease from year to year, the Secretary of State for India in Council shall be liable as aforesaid for the term of six months from the date on which the house is vacated in pursuance of the notice.

(*4*) Nothing in this section shall be deemed—

(*a*) to render the said Secretary of State in Council so liable unless an application in writing in this behalf is made by the owner to the Cantonment Authority within fifteen days from the service of the notice; or

(*b*) to limit or otherwise affect any agreement between the said Secretary of State in Council and the owner.

Terms of tenancy applicable to military officers.

16. (*1*) Subject to the terms of any agreement in writing between an owner and a military officer, and to the provisions of this section, every lease of a house to such an officer shall be deemed to be a lease from month to month, terminable,—

(*a*) without notice, in the case of a Committee of Arbitration deciding as hereinafter provided, that the house has become unfit for occupation,

(*b*) by half a month's notice to the owner, in the case of the departure

of the officer from the cantonment on duty or under medical certificate, and

(*c*) by one month's notice to the owner, in any other case.

(*2*) The Cantonment Magistrate shall, if the military officer so desires, cause the notice required by sub-section (*1*), clause (*b*) or clause (*c*), to be served on the owner.

(*3*) Where a military officer has, in pursuance of sub-section (*1*), clause (*a*), given up his occupation of a house without notice and has occupied the house during a portion only of the calendar month in which his occupation ceased, he shall be liable to pay as rent for that portion a sum bearing the same proportion to the monthly rent as the said portion bears to the whole month.

(*4*) Where a notice in respect of a house has been issued under section 6 or section 7 and the house has been vacated in pursuance thereof, the tenancy of the military officer in whose behalf the notice was issued, shall be deemed to have commenced on the date on which the house was vacated.

Sub-lease voidable at option of owner.

17. If the tenant of a house, being a military officer, sub-lets the same without the consent of the owner, the sub-lease shall be voidable at the option of the owner.

Power for owner to require reference to arbitration on question of rent.

18. (*1*) If the owner considers that the rent stated in a notice in accordance with section 9 is not reasonable, he may, within a period of fifteen days from the service of such notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

(*2*) If the owner does not make such a requisition within the said period, he shall be deemed to have accepted the rent so offered.

(*3*) The rent fixed by a Committee of Arbitration or accepted by the owner under this section shall be deemed to be the rent payable by the military officer in whose behalf the notice was issued, as from the commencement of his tenancy, and the amount of such rent shall not be called in question by either party, except in the circumstances mentioned in section 21, clause (*a*).

Power for owner to require reference to arbitration on question of repairs.

19. (*1*) If the owner fails to execute any repairs to a house which the tenant, being a military officer, considers necessary, the Cantonment Authority may, at the request of the tenant and if it is satisfied that such repairs or any of them are necessary, by notice require the owner to execute such repairs or such of them as it may consider necessary, within a period, not less than fifteen days, to be specified in the notice.

(*2*) If the owner objects to comply with a notice issued under sub-section (*1*), he may, within fifteen days from the service of the notice, require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

20. If the tenant of a house, being a military officer, considers that his lease should be terminable without notice in consequence of the house having become unfit for occupation, he may require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

Power for military tenant to require reference to arbitration on question whether house has become unfit for occupation.

21. If the owner and the tenant of a house, being a military officer, disagree—

(*a*) as to any change in the rent of the house which is proposed in consequence of dilapidations or additions to buildings or for any other similar reason, or

(*b*) on any matter relating to rent or repairs not otherwise provided for by this Act,

either the owner or the tenant may require that the matter be referred by the Commanding Officer of the cantonment to a Committee of Arbitration.

Power for either owner or military tenant to require reference to arbitration on other questions.

22. Where—

(*a*) the owner fails to comply with a notice issued under section 19, sub-section (*1*), and has not, within fifteen days from the service of such notice, required that the matter be referred to a Committee of Arbitration, or

(*b*) a Committee of Arbitration decides that repairs are necessary and the extent to which they are necessary, and specifies the period within which they are to be executed, and the owner fails to execute them within such period,

the Military Works Services or the Public Works Department shall, on the application of the tenant of the house, being a military officer, cause the repairs specified in the notice or, if the matter has been referred to a Committee of Arbitration, in the decision of the Committee, to be executed at the expense of the tenant, and the tenant may deduct the cost thereof from the rent, or otherwise recover it from the owner.

Power for military tenant to have repairs executed and recover cost.

23. Every person on whom devolves, by transfer, by succession or by operation of law, the interest of an owner in any house, or in any part of any

Notice to be given of devolution

of interest in house in cantonment.

house, situate in a cantonment or part of a cantonment in respect of which a notification under section 3, sub-section (*1*), is for the time being in force shall be bound to give the Cantonment Magistrate notice of the fact within one month from the date of such devolution, and, if he, without reasonable cause, fails to do so, shall be punishable with fine which may extend to fifty rupees.

CHAPTER IV.

COMMITTEES OF ARBITRATION.

Convening of Committee of Arbitration in cases falling under section 14, sub-section (*2*).

24. In the event of any disagreement as to the amount of the purchase-money of a house to be sold under section 14, sub-section (*2*), the Cantonment Authority shall apply to the Commanding Officer of the cantonment to refer the matter to a Committee of Arbitration, and the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration to determine it.

Convening of Committees of Arbitration on requisition of owners.

25. Where a requisition is made to the Commanding Officer of the cantonment by an owner under section 18, section 19 or section 21, the Commanding Officer of the cantonment shall forthwith proceed to convene a Committee of Arbitration—

(*a*) to determine the amount of monthly rent to be paid, or

(*b*) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or

(*c*) otherwise to determine the question in dispute.

Convening of Committees of Arbitration on requisition of military officers.

26. (*1*) Where a requisition is made to the Commanding Officer of the cantonment by a military officer under section 20 or section 21, the Commanding Officer of the cantonment may, after such inquiry as he may think fit to make, proceed to convene a Committee of Arbitration—

(*a*) to determine whether the house has become unfit for occupation, or

(*b*) to determine the amount of monthly rent to be paid, or

(*c*) to determine whether any, and (if any) what, repairs are necessary, the extent to which they are necessary, and the period within which they are to be executed, or

(*d*) otherwise to determine the question in dispute.

(*2*) In the exercise of the discretion vested in him by sub-section (*1*) the Commanding Officer of the cantonment may refuse to convene a Committee of Arbitration on the ground that the application therefor is groundless or frivolous.

Procedure for

27. (*1*) Where a Committee of Arbitration is to be convened, the Com-

manding Officer of the cantonment shall forthwith cause an order to be published in Station Orders, stating the matter to be determined.

convening Committees of Arbitration generally.

(2) The Cantonment Magistrate shall forthwith send a copy of such order to the District Magistrate and to the parties concerned, and shall forthwith by notice require the parties to nominate members of the Committee in accordance with the provisions of sections 28 and 29.

Constitution of Committees of Arbitration.

28. Every Committee of Arbitration shall consist of—

(a) a chairman, who shall be the District Magistrate, or, if the District Magistrate is unable to act on the Committee, some Magistrate, being a Justice of the Peace or Magistrate of the first class, and not being the Cantonment Magistrate, appointed by the District Magistrate to act in his stead;

(b) a member to be nominated by the military officer concerned; and

(c) a member to be nominated by the owner concerned:

Provided that, if the military officer and the owner, at any time before the meeting of the Committee, join in nominating, by notice to the Cantonment Magistrate, any other person as chairman, such person shall be the chairman instead of the District Magistrate or the Magistrate (if any) appointed by the District Magistrate under clause (a); and

Provided, also, that,—

(i) if the officer or the owner fails, without reasonable cause, to nominate a member within seven days from the date on which he may be called upon to do so, or,

(ii) if any member, who has been nominated, neglects or refuses to act, and the officer or the owner, as the case may be, fails to nominate another member in his place within seven days from the date on which he is called upon to do so,

the District Magistrate shall forthwith appoint a member in the place of the nominee of the officer or owner, as the case may be.

Members of Committees of Arbitration to be persons who have no direct interest and whose services are immediately available.

29. (1) No person who has a direct interest in the matter under reference or whose services are not immediately available for the purposes of the Committee, shall be nominated or appointed a member of a Committee of Arbitration.

(2) If any person who has been nominated has, in the opinion of the District Magistrate, a direct interest in the matter under reference, or if his services are not immediately available as aforesaid, and if the officer or the owner, as the case may be, fails to nominate another member in his place within seven days from the date on which he is called on so to do, such

failure shall be deemed to constitute a failure to make a nomination within the meaning of section 28.

Meeting and powers of Committees of Arbitration.

30. (*1*) When a Committee of Arbitration has been duly constituted, the Cantonment Magistrate shall by notice inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(*2*) The Committee shall have power to receive evidence and to administer oaths to witnesses, and the Cantonment Magistrate shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee, and may enforce the said processes as if they were processes for attendance or production before himself.

Powers of chairman of Committee of Arbitration as to meetings.

31. The chairman of the Committee of Arbitration shall fix the time and place of meeting, and shall have power to adjourn the meeting from time to time, as may be necessary.

Calculation of amount of purchase-money by Committees of Arbitration.

32. In determining the amount of the purchase-money to be paid for a house to be sold under section 14, sub-section (*2*), the Committee of Arbitration convened under section 24 shall estimate the market-value of the house at the date on which the notice was served on the owner under section 6 or section 7, as the case may be.

Calculation of rent by Committees of Arbitration.

33. Subject to the presumption mentioned in the first explanation to section 8, in determining the amount of monthly rent to be paid for a house, the Committee of Arbitration shall estimate the letting-value of the house, and shall have regard to, amongst other things, the circumstances of the neighbourhood and the period of time and season for which the house is likely to be occupied during the year.

Decisions of Committees of Arbitration.

34. (*1*) The decision of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the chairman and at least one of the other members are present.

(*2*) If there is not a majority of votes in favour of any proposed decision, the opinion of the chairman shall prevail.

(*3*) The decision of a Committee of Arbitration shall be final.

CHAPTER V.

APPEALS.

Appeal when allowed.

35. (*1*) If any owner or any tenant of a house is aggrieved by a notice issued under section 6 or section 7, he may appeal to the General Officer of the command.

(*2*) No such appeal shall be admitted unless made within a period of twenty-one days from the service of the notice aforesaid, and such period shall be computed in accordance with the provisions of the [1]Indian Limitation Act, 1877, with respect to the computation of periods of limitation thereunder.

XV of 1877.

36. (*1*) Every petition of appeal shall be in writing and accompanied by a copy of the notice appealed against. Petition of appeal.

(*2*) Any such petition may be presented to the Cantonment Authority; and that Authority shall be bound to forward it to the General Officer of the Command, and may attach thereto any report which it may desire to make in explanation of the notice appealed against.

(*3*) If any such petition is presented direct to the General Officer of the Command and an immediate order on the petition is not necessary, the General Officer of the Command may refer the petition to the Cantonment Authority for report.

37. The decision of the General Officer of the Command on any such appeal shall be final: Order in appeal final.

Provided that no appeal shall be decided until the appellant has been heard or has had a reasonable opportunity of being heard.

38. Where an appeal from a notice has been presented within the period prescribed by section 35, sub-section (*2*), all action on such notice shall, on the application of the appellant, be held in abeyance pending the decision of the appeal. Suspension of action pending appeal.

CHAPTER VI.

Supplemental Provisions.

39. (*1*) If a military officer is given possession of a house in pursuance of a notice issued under section 6 or section 7, the rent payable by such officer under this Act shall be registered by the Cantonment Authority in a register to be maintained in such form as the Local Government may, by rule, prescribe. Recovery of rents from military tenants in cantonments.

(*2*) If such officer fails, before the fifteenth day of any month, to pay the rent so registered and due from him in respect of the month immediately preceding, the Cantonment Authority, if so satisfied, shall, on the application of the owner made before the end of the later month, report the matter, through the proper channel, to the Officer Commanding the District.

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[1] *See* the revised edition as modified up to 31st December, 1900.

(*3*) The Officer Commanding the District may, if he is satisfied that the amount claimed is still due, order that it be withheld from the salary and allowances of the defaulting officer, and, upon notice of the order to the officer whose duty it is to disburse such salary and allowances, such disbursing officer shall, unless such salary and allowances are under attachment by order of a Civil Court, withhold and remit to the Cantonment Authority, for payment to the owner, the amount specified in the order.

(*4*) If, within two months from the date of an application made by the owner under sub-section (*2*) on which the Officer Commanding the District has made an order under sub-section (*3*), the amount of the rent in respect of which such application and order were made is not paid to the owner, the Cantonment Magistrate shall, on the application of the owner, require the defaulting officer to vacate the house within four days, and, if such officer fails to do so, the Cantonment Magistrate shall, by himself or by another person generally or specially authorized by him in this behalf, enter on the premises and enforce the surrender of the house.

Service of notice and requisitions.

40. Every notice or requisition prescribed by this Act shall be in writing, signed by the person by whom it is given or made or by his duly appointed agent, and may be served by post on the person to whom it is addressed, or in the case of an owner who is absent from the cantonment, on his agent appointed under section 226 of the [1]Cantonment Code, 1899.

Power for Governor General in Council to make rules.

41. (*1*) The Governor General in Council may make rules to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) regulate the procedure of Committees of Arbitration; and

(*b*) define the powers of inspection and entry which may be exercised in carrying out the purposes and objects of this Act or of any rule thereunder.

Further provisions respecting rules.

42. (*1*) The power to make rules under section 41 shall be subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the Gazette of India and in such other manner (if any) as the Governor General in Council may direct.

(*2*) Any rule under section 41 may be general for all cantonments or parts of cantonments in British India in which this Act is for the time being

[1] Published under Notification No. 664 J., dated the 16th June, 1899, *see* Gazette of India, 1899, Pt. I, p. 477. The Code has since been frequently amended.

operative, or may be special for any of such cantonments or parts, as the Governor General in Council may direct.

(*3*) A copy of the rules under section 41 for the time being in force in a cantonment shall be kept open to inspection free of charge at all reasonable times in the office of the Cantonment Authority.

(*4*) In making any rule under section 41, sub-section (*2*), clause (*b*), the Governor General in Council may direct that whoever obstructs any person, not being a public servant within the meaning of section 21 of the Indian Penal Code,[1] in making any inspection or entry, shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, with fine which, in addition to such fine as aforesaid, may extend to five rupees for every day after the first during which such offence continues.

XLV of 1860.

V of 1898.

Inapplicability of section 556 of the Code of Criminal Procedure, 1898, to trials of offences against rules.

43. No Judge or Magistrate shall be deemed, within the meaning of section 556 of the Code of Criminal Procedure, 1898,[2] to be a party to, or personally interested in, any prosecution for an offence against any rule under this Act merely because he is a member of the Cantonment Committee or has ordered or approved the prosecution.

Protection to persons acting under Act.

44. No suit or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done, under this Act or in pursuance of any lawful notice or order issued under this Act.

ACT No. III OF 1902.[3]

[*14th February, 1902.*]

An Act further to amend the Indian Steam-ships Act, 1884, and to validate certain certificates granted to engine-drivers of steam-ships.

II of 1884.

WHEREAS it is expedient further to amend the [4] Indian Steam-ships Act, 1884, and to validate certain certificates granted to engine-drivers of steam-ships; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Steam-ships (Amending and Validating) Act, 1902.

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[1] *See* the revised edition of the Code as modified up to 1st April, 1903.
[2] *See* the revised edition of the Code as modified up to 1st April, 1903.
[3] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 103; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 23; for Proceedings in Council, *see ibid*, 1901, Pt. VI, p. 214; *ibid*, 1902, Pt. VI, pp. 2, 6 and 21.
[4] General Acts, Vol. IV.

Amendment of section 23, Act VII, 1884.

2. In section 23 of the Indian Steam-ships Act, 1884,[1] the word "foreign", where it first occurs, shall be omitted; for the words "at the port of survey" the words "at the port where the survey was made" shall be substituted; and in the proviso, after the words "in the case of" the words "a foreign steam-ship to" shall be inserted. VII of 1884.

Amendment of section 25, Act VII, 1884.

3. In section 25 of the said Act, after the word "specified" the words "steam-ship or" shall be inserted, and for the words "to them" the word "thereto" shall be substituted.

Validation of certain certificates granted in Sind to engine-drivers of steam-ships.

4. All certificates of competency granted under the authority of the Commissioner in Sind between the first day of December, 1885, and the third day of July, 1900, to certify the competency of the grantees thereof to act as engine-drivers of steam-ships, shall be deemed to have been granted under the Indian Steam-ships Act, 1884,[1] and shall be recognised as valid for voyages of those classes with reference to which they were granted: VII of 1884.

Provided that nothing in this section shall be deemed to affect such certificates in any other respect.

ACT No. IV OF 1902.[2]

[*14th February, 1902.*]

An Act to apply the provisions of the Indian Railway Companies Act, 1895, to certain Tramway Companies.

WHEREAS by the Indian Railway Companies Act, 1895,[3] the Railway Companies therein mentioned are authorized to pay interest on their paid-up share capital out of capital in the manner and on the conditions prescribed by the said Act; X of 1895.

And whereas it is expedient to apply the provisions of the said Act to Companies formed for the construction of tramways not differing in structure and working from light railways;

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Tramways Act, 1902; and

(*2*) It extends to the whole of British India.

Application of Act X, 1895, to Tramway Companies.

2. The Governor General in Council may, by notification in the Gazette of India, direct that the provisions of the Indian Railway Companies Act, 1895, in so far as the same are applicable, shall apply to any Company X of 1895.

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[1] General Acts, Vol. IV.

[2] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 105; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 27; for Proceedings in Council, *see ibid*, 1901, Pt. VI, p. 14; *ibid*, 1902, Pt. VI, pp. 2, 6 and 21.

[3] General Acts, Vol. VI.

formed for the construction of a tramway under the Bengal Tramways Act, 1883,[1] or the Indian Tramways Act, 1886,[2] and thereupon it shall be lawful for the Tramway Company mentioned in the notification to pay interest upon its paid-up share capital out of capital in the manner and subject to the conditions prescribed by the said Indian Railway Companies Act, 1895.[3]

Ben. Act III of 1883. XI of 1886.

X of 1895.

ACT No. V OF 1902.[4]

[*14th February, 1902.*]

An Act further to amend the Law relating to Administrators General and Official Trustees.

WHEREAS it is expedient further to amend the law relating to Administrators General and Official Trustees; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Administrators General and Official Trustees Act, 1902; and

(*2*) It shall be deemed to have come into force on the first day of January, 1902.

Appointment of Deputy Administrator General and Official Trustee.

2. (*1*) The Government may appoint a Deputy to assist the Administrator General as Administrator General and, if he is also Official Trustee, as Official Trustee; and the Deputy so appointed shall, subject to the control of the Government and the general or special orders of the Administrator General, be competent to discharge any of the duties and to perform any of the functions of the Administrator General as Administrator General or, if he is also Official Trustee, as Official Trustee.

(*2*) A Deputy appointed under sub-section (*1*) may be either a barrister or a solicitor or attorney, and, notwithstanding anything in the Administrator General's Act, 1874,[5] any Deputy so appointed may officiate as Administrator General.

II of 1874.

Remuneration of Administrator General as

3. (*1*) Notwithstanding anything in the Administrator General's Act, 1874,[5] or the Official Trustees Act, 1864,[6] the Administrator General may be

II of 1874. XVII of 1864.

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[1] Bengal Code.

[2] General Acts, Vol. IV. *See* also the revised edition of the Act as modified up to 31st December, 1900.

[3] General Acts, Vol. VI.

[4] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 5; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 31; for Proceedings in Council, *see ibid*, 1901, Pt. VI, p. 12; *ibid*, 1902, Pt. VI, pp. 6 and 21.

The Act has been declared in force in the Santhal Parganas by notification under s. 3 (*3*) (*a*) of the Sonthal Parganas Settlement Regulation (III of 1872) as modified up to 1st October, 1899—*see* Calcutta Gazette, 1903, Pt. I, p. 255.

[5] General Acts, Vol. II.

[6] General Acts, Vol. I.

such and as Official Trustee.

remunerated by such fixed salary and allowances, and on such terms and subject to such conditions as the Governor General in Council may direct; and, where he is so remunerated, he shall be entitled to no further remuneration whatsoever, but shall transfer and pay to such officer, in such manner, and at such times, as the Governor General in Council may, by general or special order, require, all moneys payable to and received by him as Administrator General or, if he is also Official Trustee, as Official Trustee, by way of commission or other remuneration for his service, and the same shall be carried to the account and credit of the Government for the general purposes of the Government; and in such case all the expenses of the establishment necessary for the office of the Administrator General, and, if he is also Official Trustee, for that of Official Trustee, including the provision of office accommodation, together with all other charges to which the said office or offices may be subject, shall be defrayed by the Government.

(*2*) Nothing in this Act shall be deemed to render the Government or the Administrator General appointed after the commencement of this Act liable for anything done or purporting to be done by or under the authority of the Administrator General before the commencement of this Act, or, where the Administrator General is also Official Trustee, for anything done or purporting to be done by or under the authority of any Official Trustee appointed before the appointment of the Administrator General to be Official Trustee.

(*3*) The Government shall be deemed to be responsible for the civil liabilities of any Administrator General remunerated by such fixed salary and allowances as aforesaid as Administrator General or, if he is also Official Trustee as Official Trustee. XIV of 1882.

(*4*) Notwithstanding anything in the [1]Code of Civil Procedure, a suit to enforce any such civil liability as aforesaid shall be brought against the Administrator General as Administrator General or, if he is also Official Trustee, as Official Trustee, as the case may be, by his name of office; and no suit so brought shall abate by reason of the death, resignation, suspension or removal of the person holding the office of Administrator General or Official Trustee.

Repeal of part of section 9, and section 56, Act II, 1874, and

4. (*1*) The second proviso to section 9, and section 56, of the Administrator General's Act, 1874,[2] are hereby repealed. II of 1874.

(*2*) The High Court of the Province may, on application made to it, suspend, remove or discharge any private executor or administrator and

[1] General Acts, Vol. IV, *see* also the revised edition as modified up to 1st December, 1899.
[2] General Acts, Vol. II.

provide for the succession of another person to the office of any such executor or administrator who may cease to hold office, and the vesting in such successor of any property belonging to the estate.

provisions regarding private executors and administrators.

(*3*) No private executor or administrator shall be entitled to receive or retain any commission or agency charges at a higher rate than that for the time being fixed in respect of the Administrator General by or under the Administrator General's Act, 1874.[1]

II of 1874.

Power for High Court to give directions regarding administration of estate or trust.

5. (*1*) So far as regards the Administrator General of any of the Presidencies of Bengal, Madras and Bombay, the High Court at the Presidency-town may, on application made to it, give to such Administrator General any general or special directions in regard to any estate in his charge or any trust of which he is the Official Trustee, or in regard to the administration of any such estate or trust.

(*2*) The High Court of the Province may, in like manner, give similar directions to any private executor or administrator other than the Administrator General acting officially.

Power for High Court to make rules assigning jurisdiction.

6. The High Court of the Province may make rules for assigning jurisdiction under the Administrator General's Act, 1874,[1] or the Official Trustee's Act, 1864,[2] to subordinate Courts, and for defining such jurisdiction.

II of 1874.
XVII of 1864.

General Powers of administration.

7. The Administrator General acting as such or as Official Trustee, and any private executor or administrator, may, in addition to, and not in derogation of, any other powers of expenditure lawfully exercisable by him, incur expenditure—

(*a*) on such acts as may be necessary for the proper care and management of any property belonging to any estate or trust administered by him; and,

(*b*) with the sanction of the High Court at the Presidency-town in the case of the Administrator General, or with that of the High Court of the Province in the case of a private executor or administrator, on such religious, charitable and other objects, and on such improvements, as may be reasonable and proper in the case of such property.

Provision for administration by consular officer in case of death in

II of 1874.

8. Notwithstanding anything in the Administrator General's Act, 1874,[1] or in any other enactment or rule of law for the time being in force, the Governor General in Council may, by general or special order, direct that, where a subject of a foreign State dies in British India and it appears that

[1] General Acts, Vol II.
[2] General Acts, Vol. I.

certain circumstances of foreign subject.

there is no one in British India, other than the Administrator General, entitled to apply to a Court of competent jurisdiction for letters of administration of the estate of the deceased, letters of administration shall, on the application to such Court of any consular officer of such foreign State, be granted to such consular officer on such terms and conditions as the Court may, subject to any rules [1] made in this behalf by the Governor General in Council by notification in the Gazette of India, think fit to impose.

Amendment of section 256, Act X, 1865.

9. In section 256 of the Indian Succession Act, 1865,[2] as amended by section 6 of the Probate and Administration Act, 1889,[3] after the word "administration" the words and figures "other than a grant under section 212" shall be inserted. X of 1865. VI of 1889.

Act to be read with Acts II, 1874, and XVII, 1864.

10. This Act shall be read with, and taken as amending, the Administrator General's Act, 1874,[3] and the Official Trustees Act, 1864.[3] II of 1874. XVII of 1864.

ACT No. VII OF 1902.[4]

[*26th March, 1902.*]

An Act to recognise and give effect to a change in the constitution and designation of the territories formerly known as the North-Western Provinces and Oudh.

WHEREAS the territories formerly administered by the Chief Commissioner of Oudh have been united under one Local Government with those administered by the Lieutenant-Governor of the North Western Provinces;

And whereas it has been resolved that the territories so united in one Lieutenant-Governorship shall be known as "the United Provinces of Agra[5] and Oudh";

And whereas it is expedient to recognise and give effect to the change so made in the constitution and designation of the said territories;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the United Provinces (Designation) Act, 1902.

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[1] For such rules made in respect of Japanese Consular Officers and Consular Officers of the United States of America, *see* Gazette of India, 1902, Pt. I, p. 543, and *ibid*, 1903, Pt. I, p. 95.

[2] General Acts, Vol. I.

[3] General Acts, Vol. V, Vol. II and Vol. I, respectively.

[4] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 63; for Proceedings in Council, *see ibid*, Pt. VI, pp. 51 and 54.

[5] *See* Proclamation, No. 996P., dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

References in existing enactments to North-Western Provinces and Oudh.

2. In every enactment heretofore passed and now in force, and in every appointment, order, scheme, rule, by-law, notification or form made or issued thereunder, all references to the North-Western Provinces and Oudh shall be construed as referring to the United Provinces of Agra and Oudh, all references to the North-Western Provinces and to the Province of Oudh, respectively, shall be construed as referring to the corresponding territories as comprised in the United Provinces of Agra and Oudh, all references to the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh, respectively, shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh, and all references to the Lieutenant-Governor of the North-Western Provinces and Oudh in Council shall be construed as referring to the Lieutenant-Governor of the United Provinces of Agra and Oudh in Council.

ACT No. VIII OF 1902.[1]

[*7th June, 1902.*]

An Act further to amend the Indian Tariff Act, 1894.

III of 1894.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1894; It is hereby enacted as follows:—

Short title and duration.

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1902; and

(*2*) It shall remain in force until the thirty-first day of August, 1903.

VIII of 1894. XIV of 1899.

Addition of new section 8B after section 8A, Act VIII, 1894.

2. After section 8A of the Indian Tariff Act, 1894,[2] as amended by the Indian Tariff Amendment Act, 1899,[3] the following section shall be added, namely:—

Special import-duty on sugar in certain cases.

[4] "*8B. (1) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into British India, whether the*

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 68; for Proceedings in Council, *see ibid*, Pt. VI, pp. 149 and 156.

[2] General Acts, Vol. VI.

[3] *Supra*, p. 108.

[4] Duties chargeable under this section and which were continued in force under s. 8 C. of the Indian Tariff Act, 1894 (VIII of 1894) will cease to be leviable after the 31st March, 1904. *See* s. 1 (*2*) of the Indian Tariff Amendment Act, 1903 (XII of 1903), *infra*.

same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the Governor General in Council may, by notification in the Gazette of India, impose,[1] *in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess.*

(2) The Governor General in Council may from time to time, by General or special order, declare, for the purposes of sub-section (1),—

(a) what articles or substances containing any saccharine matter shall be deemed to be 'sugar' and what kinds of sugar shall be deemed to be 'refined sugar' or 'other sugar', respectively; and

(b) what sums in the currency of British India shall be deemed to be the equivalent of 'francs' and 'centimes', respectively.

(3) The amount of the excess referred to in sub-section (1) shall be from time to time ascertained, determined and declared by the Governor General in Council, and the Governor General in Council may, by notification in the Gazette of India, make rules for the[2] *identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub-section (1).*"

Act not to apply in certain cases.

3. This Act shall not apply to any imported article or substance, the bill of lading for which was signed and given before the twenty-third day of May, 1902.

ACT No. IX OF 1902.[3]

[*7th June, 1902.*]

An Act to amend the Indian Paper Currency Act, 1900.

WHEREAS it is expedient to amend the Indian Paper Currency Act, 1900; VIII of 1900.
It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Paper Currency Act, 1902.

Repeal of section 1 (3) and section 3, Act VIII, 1900.

2. Section 1, sub-section (3), and section 3 of the Indian Paper Currency Act, 1900,[4] are hereby repealed. VIII of 1900.

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[1] For notification imposing such duty, *see* Gazette of India, 1902, Pt. I, p. 415.

[2] For rules for the identification of sugar on which special duty has been imposed, *see* Gazette of India, 1902, Pt. I, p. 596.

[3] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 69; for Proceedings in Council, *see ibid*, Pt. VI, pp. 162 and 166.

The Act has been declared in force in the Santhal Parganas by notification under s. 3 (3) (*a*) of the Santhal Parganas Settlement Regulation (III of 1872) as modified up to 1st October, 1899—*see* Calcutta Gazette, 1906, Pt. I, p. 255.

[4] *Supra*, p. 139.

ACT No. X OF 1902[1].

[*24th October, 1902.*]

An Act further to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient further to amend the Indian Emigration Act, 1883,[2] and to make better provision for the departure by sea out of India of Natives of India engaged for certain purposes; It is hereby enacted as follows:—

XI of 1883.

Short title and extent.

1. (*1*) This Act may be called the Indian Emigration (Amendment) Act, 1902; and

(*2*) It extends to the whole of British India.

Addition to preamble, Act XXI, 1883.

XXI of 1883.

2. To the preamble to the Indian Emigration Act, 1883, the words "and to regulate their departure by sea out of India in certain cases" shall be added.

Addition of new clause to section 6, Act XXI of 1883.

3. In section 6 of the said Act, after the word "context" the following clause shall be inserted, namely:—

"(*1*) 'labour' means 'unskilled labour' and does not include any work or other occupation of the nature hereinafter referred to in Chapter XIV:"

and the existing clauses (*1*) to (*9*) shall be renumbered clauses (*2*) to (*10*), respectively.

Amendment of clause (2), section 6, Act XXI, 1883.

4. For the proviso to clause (*2*), as renumbered, of the same section, the following proviso shall be substituted, namely:—

"Provided that, in case of any doubt or dispute as to whether any person should be deemed so to emigrate, the question shall be referred to the Local Government, whose decision shall be final."

Repeal of clause (a) of proviso to section 105, Act XXI of 1883.

5. In the proviso to section 105 of the said Act, clause (*a*) is hereby repealed.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 66; for Report of the Select Committee, *see ibid*, 1902, Pt. V, p. 87, and for Proceedings in Council, *see ibid*, 1902, Pt. VI, pp. 177, 179 and 182.

[2] General Acts, Vol. IV.

Addition of Chapter after Chapter XIII, Act XXI, 1883.

6. After Chapter XIII of the said Act the following Chapter shall be added, namely :—

"CHAPTER XIV.

"NATIVES OF INDIA ENGAGED AS ARTISANS OR FOR EXHIBITIONS, ENTERTAINMENTS OR SERVICE IN PLACES OF PUBLIC RESORT OR DOMESTIC SERVICE ABROAD.

Application for permission to engage Natives of India to depart abroad for certain purposes.

"107. (*1*) Whoever desires to engage any Native of India to depart by sea out of India for the purpose—

(*a*) of working as an artisan, or

(*b*) of any exhibition or entertainment, or

(*c*) of service in any restaurant, tea-house or other place of public resort, or,

(*d*) save as provided in sub-section (*2*), of domestic service,

in any place beyond the limits of India other than the Island of Ceylon or the Straits Settlements, shall apply for the permission of the Local Government having jurisdiction at the port from which such person is to depart (which shall be a port from which emigration is lawful), and shall state in his application—

(*i*) the number of the persons whom he proposes so to engage ;

(*ii*) the place or places beyond the limits of India to which such persons and their dependents are to proceed ;

(*iii*) the accommodation to be provided for such persons and their dependents until their departure out of India and during the voyage ;

(*iv*) the provision to be made for the health and well-being of such persons and their dependents during the period of the proposed engagement, and for their repatriation at the end of such period ;

(*v*) the terms of the agreements under which such persons are to be engaged ; and

(*vi*) the security in British India which he proposes to furnish for the due observance of such agreements and for the proper treatment of the persons to be engaged and their dependents.

(*2*) Nothing in sub-section (*1*) shall be deemed to apply to any person who in good faith—

(*a*) engages a Native of India to accompany him out of India as his personal domestic servant, or

(*b*) engages in compliance with the request of some other person, not being in India, a Native of India to depart out of India for the purpose of becoming the personal domestic servant of such other person.

Explanation.—For the purposes of this Chapter, the words "emigrant" and "emigrate" in the definition of "dependent" in section 6, clause (*4*), shall be read as referring to the departure by sea out of India of a person whom it is desired to engage under this Chapter.

Applications how to be disposed of.

"108. On receiving an application under section 107, the Local Government may, after such inquiry as may be necessary, grant the permission applied for on such terms and conditions (if any) as it thinks fit, or withhold such permission, and the decision of the Local Government shall be final.

Appearance of engaged persons before, and registration of names by, Protector of Emigrants.

"109. (*1*) Before any Native of India departs from India in accordance with permission granted under section 108, the person by whom he has been engaged shall appear before the Protector of Emigrants at the port of embarkation with such Native of India, and with any persons intending to accompany him as his dependents.

(*2*) If it appears to the Protector of Emigrants that permission to engage such Native of India has been duly obtained and that the terms of the agreement under which such Native of India has been engaged are in accordance with the terms of the permission granted, and that the conditions on which such permission was granted have been compiled with, he shall register in a book to be kept for the purpose such particulars concerning such Native of India and his dependents (if any) and concerning the person engaging him in such form as the Governor General in Council by rules made under this Chapter prescribes.

Provisions as to security.

"110. Where such security as is referred to in section 107, sub-section (*1*), sub-clause (*vi*), has been furnished, the Local Government may after such inquiry as may be necessary, pass orders in regard to the forfeiture of the security and the application of the same or of any part thereof, or may order the return of the security or of any part thereof to the person by whom it was furnished, or to his representative.

Penalty and restriction on prosecutions.

"111. (*1*) Whoever,—

(*a*) without having first obtained the permission of the Local Government referred to in section 107, sub-section (*1*), enters or attempts to enter into an agreement purporting to bind any Native of India to depart by sea out of India for any of the purposes specified in the said sub-section, or

(*b*) causes any Native of India engaged by him for any such purpose as aforesaid to depart from any port which is not a port from which emigration is lawful, or

(*c*) causes any Native of India engaged by him, after grant of the permission referred to in section 108, to depart by sea out of India without registration of the particulars required by section 109, sub-section (*2*),

shall, on conviction by a Magistrate of the first class, be punishable with fine which may extend to two hundred and fifty rupees for each Native of India in respect of whom the offence is committed.

(*2*) Prosecutions under this section shall not be instituted except by the Protector of Emigrants or by an officer appointed for the purpose by any Local Government.

Delegation to Protector of Emigrants of authority to receive or dispose of applications.

"112. The Local Government may, by notification in the local official Gazette, authorize a Protector of Emigrants to receive or dispose of applications made under this Chapter:

Provided that an appeal shall lie to the Local Government from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

Rules.

"113. (*1*) The Governor General in Council may, by notification in the Gazette of India, make rules for the purpose of carrying into effect the provisions of this Chapter.

(*2*) All rules under this section shall be made subject to the condition of previous publication."

ACT No. I OF 1903.[1]

[*6th March, 1903.*]

An Act to facilitate the citation of certain enactments, to amend certain enactments and to repeal certain other enactments.

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

And whereas it is also expedient that certain enactments specified in the third schedule to this Act, which are spent, or have ceased to be in force other-

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 72; for Proceedings in Council, *see ibid*, Pt. VI, pp. 6 and 15.

wise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Repealing and Amending Act, 1903.

Citation of certain enactments.

2. Each of the enactments described in the first three columns of the first schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Amendment of certain enactments.

3. The enactments specified in the second schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

Repeal of certain enactments.

4. The enactments specified in the third schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Savings.

5. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

SHORT TITLES.

(*See section 2.*)[1]

1	2	3	4
Year.	No.	Title or subject.	Short title.
		Part II.—Acts of the Governor General in Council.	
	*	* * *	* * *[2]
1876	VII	An Act to extend the Criminal Tribes Act, 1871, to the Lower Provinces of Bengal, and to amend the same Act.	The Criminal Tribes (Amendment) Act, 1876.
	*	* * *	* * *[3]

THE SECOND SCHEDULE.

AMENDMENTS.

(*See section 3.*)

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
	*	* * *	* * *[4]
		Part II.—Acts of the Governor General in Council.	
1861	V	The Police Act, 1861 .	In section 34, *after* imprisonment *insert* with or without hard labour.
1867	III	The Public Gambling Act, 1867.	In the title, *for* the Central Provinces and British Burma *substitute* and the Central Provinces. In the preamble, *for* of the Chief Commissioner of the Central Provinces and of the Chief Commissioner of British Burma, *substitute* and of the Chief Commissioner of the Central Provinces.

[1] Part I, relating to Regulations of the Bengal Code, is omitted.
[2] Only so much of this Schedule as refers to General Acts is reproduced here.
[3] Part III, which refers to Bengal Acts alone, is omitted.
[4] Part I of the Second Schedule, which relates to Bengal Regulations only, is omitted, and only so much of Part II as relates to General Acts is reproduced here.

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part IV.—Acts of the Governor General in Council—contd.	
1867	III	The Public Gambling Act, 1867—*contd.*	In section 1, *for the definitions of* Lieutenant-Governor *and* Chief Commissioner *substitute the following, namely*:— "Lieutenant-Governor" means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be: "Chief Commissioner" means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be.
1872	XV	The Indian Christian Marriage Act, 1872.	In section 82, *for* certificates of marriages, *and also for* marriage certificates, *substitute* certificates for marriage. In Schedule II, *after* declaration *insert* or oath;
*	*	* *	* * *
1879	XIV	The Hackney Carriage Act, 1879.	In section 3, *for* The Lieutenant-Governors of the North-Western Provinces and the Punjab and the Chief Commissioners of Oudh, the Central Provinces, British Burma, *substitute* The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma, and the Chief Commissioner of the Central Provinces.
"	XVIII	The Legal Practitioners Act, 1879.	In section 42 (added by the Legal Practitioners Act, 1884, section 9), *before the words and figures* Act I of 1846 *insert* So much of Chapter VI of Bombay Regulation II of 1827 as has not been repealed.
*	*	* *	* * *
1889	XIII	The Cantonments Act, 1889.	In section 6, sub-section (*1*), *for* in the case of a cantonment for which such a committee has not been constituted, *substitute* where a cantonment committee has not been constituted, or has in pursuance of an order of the Local Government ceased to exist, or for any reason cannot be convened, then, subject to any rules made under section 26, clause (*5*).

THE SECOND SCHEDULE—*contd.*

1	2		4
Year.	No.	Subject or short title.	Amendments.
		Part II.—Acts of the Governor General in Council—contd.	
1897	X	The General Clauses Act, 1897.	In section 3, clauses (*5*), (*6*), (*30*) and (*35*) *after* under *insert* the Indian Councils Act 1861, or. In section 3, *after clause* (*8*), *insert the following :—* (*8a*) "Burma Act" shall mean an Act made by the Lieutenant-Governor of Burma in Council under the Indian Councils Acts, 1861 and 1892:. In section 3, *after clause* (*44*), *insert the following :—* (*44a*) "Punjab Act" shall mean an Act made by the Lieutenant-Governor of the Punjab in Council under the Indian Councils Acts, 1861 and 1892 :— In section 3, *after clause* (*55*), *insert the following :—* (*55a*) "United Provinces Act" shall mean an Act made by the Lieutenant-Governor of the North-Western Provinces and Oudh (or of the United Provinces of Agra and Oudh) in Council under the Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892 :— In section 20, *before the word* order, *in each of the places in which it occurs, insert* notification. In section 21, *for* make *substitute* issue notifications, *between the words* any *and* orders *insert* notifications, *and for* made *substitute* issued. In section 24, *before the word* order, *in each of the places in which it occurs, insert* appointment, notification; *and before the word* issued *in each of the places in which it occurs, insert* made or.
1898	V	The Code of Criminal Procedure, 1898.	In section 260, sub-section (*1*), clause (*i*), *after* 451 *insert* 453, 454. In section 555 *for* 553 *substitute* 554.

THE SECOND SCHEDULE—*concld.*

	2	3	4
Year.	No.	Subject or short title.	Amendments.
		Part II.—Acts of the Governor General in Council—concld.	
1898	V	The Code of Criminal Procedure, 1898—*contd.*	In the second schedule, column 5, against section 195, *for* Bailable *substitute* Not bailable. In the second schedule, column 8, against section 506, *for* Ditto *substitute* Presidency Magistrate or Magistrate of the first or second class. In the heading to the fifth schedule, *for* 554 *substitute* 555. In the fifth schedule, Form IV, *for* within days from this date *substitute* on the day of . In the fifth schedule, Forms XIII and XIV, *for the passage from* comply *where it occurs for the second time to* released, *substitute* be lawfully ordered to be released.
1900	III	The Prisoners Act, 1900.	For section 29 *substitute the following*:— 29. (*1*) The Governor General in Council may, by general or special order, provide for the removal of any prisoner confined in a prison— (Removal of prisoners.) (*a*) under sentence of death, or (*b*) under, or in lieu of, a sentence of imprisonment or transportation, or (*c*) in default of payment of a fine, or (*d*) in default of giving security for keeping the peace or for maintaining good behaviour, to any other prison in British India. (*2*) The Local Government, and (subject to its orders and under its control) the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the Province to any other prison in the Province.
	[1] *	* *	* * *

[1] Parts III, IV and V relate to Bengal and Burma, respectively, and are therefore omitted.

THE THIRD SCHEDULE.

REPEALS.

(*See section 4.*)

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
	*	* *	* * *[1]
		Part II.—Acts of the Governor General in Council.	
1870	XXVII	The Indian Penal Code Amendment Act, 1870.	Section 5.
*	*	* *	* * *
1873	XIV	The Lunatic Soldiers' Property Act, 1873.	So much as is unrepealed.
1874	XV	The Laws Local Extent Act, 1874.	So much of sections 6 and 7 and the fourth and fifth Schedules as relates to Act XIX of 1853 (*Recusant witnesses*). So much of section 7 and the fifth Schedule as relates to Act XXI of 1836 (*Creating Zilas*).
*	*	* *	* * *
1877	XI	The Military Lunatics Act, 1877.	In section 3, *the words* and has been ordered to be forwarded to any one of the Presidency-towns.
*	*	* *	* * *
1880	IV	The Portuguese Treaty Act, 1880.	The whole.
*	*	* *	* * *
1881	XVII	The Portuguese Convention Act, 1881.	The whole.
*	*	* *	* * *
1885	IX	The Excise and Sea Customs Law Amendment Act, 1885.	So much of section 4 as is unrepealed.
*	*	* *	* * *

[1] Part I, which relates to Bengal Regulations, is omitted, and only so much of Part II is reproduced here as relates to the General Acts.

THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part II.—Acts of the Governor General in Council—contd.	
1888	X	The Presidency Small Cause Courts Law Amendment Act, 1888.	In the title and preamble, *the words and figures* and the Presidency Small Cause Courts Act, 1882. Section 2 and the second Schedule.
1890	XVII	The Indian Census Act, 1890.	The whole.
1891	XII	The Repealing and Amending Act, 1891.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* repealed; And, *and the word* also. In section 1, *the words* Repealing and. Section 2, sub-section (*1*). So much of section 2, sub-section (*2*), and the second Schedule, Part I, as relates to the following enactments, namely:— Act V of 1869 (Indian Articles of War), Part I, clause (*c*); Act XVII of 1876 (Oudh Land-revenue Act, 1876); and Act XII of 1881. Section 3 and the first Schedule.
	*	* *	* * *
1894	XIII	The Repealing and Amending (Army) Act, 1894.	In section 1, *the words* Repealing and. Section 2, sub-section (*1*), and the first Schedule.
"	XVI	Tariff (Amending Act VIII of 1894).	The whole.
1895	I	The Presidency Small Cause Courts Act, 1895.	Section 4.
*	*	* *	* * *
1896	VII	The Presidency Small Cause Courts Act (1882) Amendment Act, 1896.	The whole.

THE THIRD SCHEDULE—*concld.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of repeal.
		Part II.—Acts of the Governor General in Council—concld.	
*	*	* *	* * *
1897	II	The Criminal Tribes Act Amendment Act, 1897.	In section 1, *the word* and *and* sub-section (*2*).
"	V	The Repealing and Amending Act, 1897.	In the title, *the words* to repeal certain obsolete enactments and *and the word* other. In the preamble, *the words from* Whereas it is expedient *to* specifically repealed; And *and the word* also *where it first occurs.* In section 1, *the words* Repealing and. Section 2, sub-section (*1*), section 3 and the first Schedule.
"	X	The General Clauses Act, 1897.	Section 2 and the schedule.
"	XI	The Bhopal Coinage Act, 1897.	The whole.
1898	III	The Lepers Act, 1898 .	Section 19.
*	*	* *	* * *
1900	III	The Prisoners Act, 1900	Section 31.
1901	I	Native Military Lunatics (repeal of enactments).	The whole.
"	XI	The Repealing and Amending Act, 1901.	In the preamble, *the words from* And whereas it is also expedient that certain enactments *to* repealed. In section 1, *the words* Repealing and. Section 3, sub-section (*2*), section 4 and the third Schedule.
*	*	* *	* * *[1]

[1] Parts III, IV, V, VI and VII, which relate to Acts of Local Councils and to Regulations under the Government of India Act, 1870 (33 & 34 Vict., cap. 3), are omitted.

ACT No. II OF 1903.[1]

[*6th March, 1903.*

An Act to amend the Indian Post Office Act, 1898.

VI of 1898 WHEREAS it is expedient to amend the Indian Post Office Act, 1898; It is hereby enacted as follows :—

1. This Act may be called the Indian Post Office (Amendment) Act, 1903. Short title.

VI of 1898. 2. At the end of clause (*b*) of section 2 of the Indian Post Office Act, 1898,[2] the following shall be added, namely :— Addition to Act VI of 1898, section 2, clause (*b*).

"Provided that the expression 'inland' shall not apply to any class of postal articles which may be specified in this behalf by the Governor General in Council by notification in the Gazette of India, when posted in or at or addressed to any places or post offices which may be described in such notification."

THE INDIAN ELECTRICITY ACT, 1903.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 75; for Proceedings in Council, *see ibid*, Pt. VI, pp. 8 and 15.
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ACT No. III OF 1903.[1]

[*13th March, 1903.*]

An Act to make better provision for facilitating and regulating the supply and use of electrical energy for lighting and other purposes.

WHEREAS it is expedient to make better provision for facilitating and regulating the supply and use of electrical energy for lighting and other purposes; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Electricity Act, 1903.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan and the Santhal Parganas; and

(*3*) It shall come into force on such date[2] as the Governor General in Council may, by notification in the Gazette of India, direct in this behalf.

Definitions.

2. In this Act, expressions defined in the Indian Telegraph Act, 1885,[3] have the meanings assigned to them in that Act, and, unless there is anything repugnant in the subject or context,— XIII of 1885

(*a*) "aërial line" means any electric supply-line which is placed above ground and in the open air:

(*b*) the expression "area of supply" means the area within which alone a licensee is for the time being authorized to supply energy:

(*c*) "consumer" means any person supplied, or entitled to be supplied with energy by a licensee:

(*d*) the expression "consumer's terminals" means the ends of the electric lines situate upon any consumer's premises and belonging to him at which the supply of energy is delivered from the service lines:

(*e*) "daily fine" means a fine for each day on which an offence is continued after conviction therefor:

(*f*) "distributing main" means the portion of any main which is used for transmitting energy to service lines for the purposes of general supply:

(*g*) "electric supply-line" means a wire, conductor or other means used for conveying, transmitting or distributing energy for any purpose

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 56; for Report of the Select Committee, *see ibid.* 1903, Pt. V, p. 77; for Proceedings in Council, *see ibid*, 1902, Pt. VI, p. 27; *ibid*, 1903, Pt. VI, pp. 2, 9 and 19.

[2] The Act was brought into force on 1st January, 1904, *see* Gazette of India, 1903 Pt. I, p. 1103.

[3] General Acts, Vol. V.

together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy :

(*h*) "electrical power" means the rate per unit of time at which energy is supplied :

(*i*) "energy" means electrical energy expended at a rate greater than twenty-five watts :

(*j*) "general supply" means the general supply of energy to ordinary consumers, and includes, in the absence of a special agreement to the contrary with the Government or with a local authority, the general supply of energy for public lamps, but does not include the supply of energy to particular consumers under special agreements :

(*k*) "licensee" means any person licensed under Part II to supply energy :

(*l*) "main" means any electric supply-line which is laid by a licensee in any street and through which energy may be supplied, or is intended to be supplied, by the licensee for the purpose of general supply :

(*m*) "plan" includes a section :

(*n*) "purpose" includes any purpose except the transmission of a message :

(*o*) "service line" means any electric supply-line through which energy may be supplied, or is intended to be supplied, by a licensee to a consumer either from a main or directly from the licensee's premises :

(*p*) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway : and

(*q*) the expression "works" includes electric supply-lines and any buildings, machinery or apparatus required to supply energy and to carry into effect the objects of a licensee.

PART II.

Supply of Energy to the Public.

Supply of energy for

3. (*1*) No person shall supply energy for electric traction or to the public for any purpose except under, and in accordance with the terms

traction or to the public for any purpose to be licensed.

and conditions of, a license granted by the Local Government under this Part:

Provided that nothing in this section shall apply to any railway or tramway subject to the provisions of the Indian Railways Act, 1890.[1] IX of 1890.

(*2*) Where any difference or dispute arises as to whether energy is or is not supplied or to be supplied for electric traction or to the public for any purpose within the meaning of sub-section (*1*), the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

Grant and revocation of licenses.

4. (*1*) The Local Government may grant a license to any person to supply energy for any purpose in any specified local area, and also to lay down electric supply-lines for the conveyance and transmission of energy from a generating station situated outside such specified local area to the boundary of such specified local area in any case in which the energy to be supplied is to be generated outside such specified local area; and in respect of every such license and the grant thereof the following provisions shall have effect, namely :—

(*a*) Before granting a license under this Part the Local Government shall consult every local authority concerned, and, where such local authority advances any objection to the grant of a license, the Local Government shall take such objection into consideration and, if in its opinion it is insufficient, shall record in writing and communicate to such local authority its reasons for such opinion.

(*b*) Any person applying for a license under this Part shall publish a notice of his application in such manner and with such particulars as the Governor General in Council may by rule direct, and no such license shall be granted until three months from the date of the first publication of such notice as aforesaid have expired and until all representations or objections received by the Local Government within that period with reference thereto have been considered by it.

(*c*) No application for a license under this Part shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held, after one month's previous notice of the same and of the purpose thereof, has been given in the manner in which notices of meetings of such local authority are usually given.

(*d*) A license under this Part may prescribe such terms as to the limits

[1] *See* now the revised edition as modified up to 1st January, 1903.

within which, and the conditions under which, the supply of energy is to be compulsory or permissive, and as to the limits of price to be charged in respect of the supply of energy, and generally as to such other matters as the Local Government may think fit.

(*e*) The grant of a license under this Part for any purpose shall not in any way hinder or restrict the grant of another license to another person within the same area of supply for a like purpose.

(*f*) The provisions contained in the schedule shall be deemed to be incorporated with, and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to such additions, variations or exceptions (if any) which the Local Government, with the previous sanction of the Governor General in Council, is hereby empowered to make, apply to the undertaking authorized by the license, and shall be binding in like manner and to the same extent as if enacted in this Act.

(2) The Local Government may, if in its opinion the public interest so requires, revoke a license, as to the whole or any part of the area of supply, in any of the following cases, namely :—

(*a*) where the licensee, in the opinion of the Local Government, makes wilful and unreasonably prolonged default in doing anything required of him by or under this Act;

(*b*) where the licensee breaks any of the terms or conditions of his license the breach of which is expressly declared by such license to render it liable to revocation;

(*c*) where the licensee, not being a local authority, fails, within a period of six months after the date of his license or such further period as the Local Government may determine and before exercising any of the powers conferred on him thereby in relation to the execution of works, to show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his license, or fails to make the deposit or furnish the security required by his license;

(*d*) where the licensee is, in the opinion of the Local Government, unable by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his license;

(*e*) where the licensee, not being a local authority, shows, to the satisfaction of the Local Government, at any time after the commencement

of his license, that his undertaking cannot be carried on with profit and ought to be abandoned;

(*f*) where the licensee supplies energy by means of some system not approved by the Local Government;

(*g*) in any other case, with the consent of the licensee and, if the licensee is not a local authority, with that of the local authority (if any) concerned, and upon such terms and conditions as it thinks just:

Provided that the Local Government shall not revoke the license as to part only of the area of supply if the licensee represents that he desires to be relieved of his liabilities in respect of the whole.

(*3*) Where the Local Government might, under sub-section (*2*), revoke a license, it may, instead of revoking the license, permit it to remain in force subject to such further terms and conditions as it thinks fit, and any further terms or conditions shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.

Provisions where license of licensee, not being a local authority, is revoked.

5. Where the Local Government revokes the license of any licensee, not being a local authority, as to the whole or any part of the area of supply, the following provisions shall have effect, namely:—

(*a*) The Local Government shall serve a notice of the revocation upon the licensee and upon any local authority concerned, and shall in the notice fix a date on which the revocation shall take effect, and on and with effect from that date all the powers and liabilities of the licensee under this Act shall absolutely cease and determine.

(*b*) Within one month after the service of such notice as aforesaid any local authority concerned may, if the Local Government has intimated to the local authority that it is at liberty so to do, by notice in writing, require the licensee to sell, and thereupon the licensee shall sell, to the local authority the undertaking or such part thereof as is carried on within the area for which it is constituted, on payment of the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him for, the purpose of the undertaking or such part thereof as aforesaid, such value to be, in case of difference or dispute, determined by arbitration:

Provided that the value of such lands, buildings, works, materials and plant shall be deemed to be their fair market-value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant

and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking, and, where a part only of the undertaking is purchased, to any loss occasioned by severance, but without any addition in respect of compulsory purchase or of goodwill or of any profits which may be or might have been made from the undertaking, or of any similar considerations.

(*c*) Where no purchase has been effected by a local authority under clause (*b*) and any other person is willing to purchase the undertaking or such part of it as aforesaid, the Local Government may, if it thinks fit, with the consent of the licensee, or without the consent of the licensee in case the price is not less than that for which the local authority might have purchased the same, require the licensee to sell, and thereupon the licensee shall sell, to such other person the undertaking or such part thereof as aforesaid.

(*d*) Where a purchase has been effected under clause (*b*) or clause (*c*), the undertaking, or such part thereof as aforesaid, shall vest in the purchasers free from any debts, mortgages, or similar obligations of the licensee, or attaching to the undertaking; and the revocation of the license shall extend only to the revocation of the rights, powers, authorities, duties and obligations of the licensee from whom the undertaking, or such part thereof as aforesaid, is purchased, and, save as aforesaid, the license shall remain in full force, and the purchaser shall be deemed to be the licensee.

(*e*) Where no purchase has been effected under clause (*b*) or clause (*c*), the Local Government shall have the option of purchasing the undertaking, or such part thereof as aforesaid, and, if the Local Government elects to purchase, the licensee shall sell the undertaking or part thereof to the Local Government upon terms and conditions similar to those set forth in clauses (*b*) and (*d*), save that where the Local Government is the purchaser the license shall, in so far as the Local Government is concerned, cease to have any further operation.

(*f*) Where no purchase has been effected under any of the foregoing clauses, the Local Government may forthwith cause the works of the licensee to be removed and the street to be reinstated and

recover the cost of such removal and reinstatement from the licensee.

(*g*) If the licensee has been required to sell the undertaking or any part thereof, and if the sale has not been completed by the date fixed in the notice issued under clause (*a*), the purchaser may, with the previous sanction of the Local Government, work the undertaking or such part thereof pending the completion of the sale.

Provisions where license of local authority is revoked.

6. Where the Local Government revokes the license of a local authority as to the whole or any part of the area of supply, it may forthwith cause the works of the licensee to be removed and the street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

Purchase of undertaking.

7. (*1*) Where a license has been granted, a local authority shall, on the expiration of such period, not exceeding forty-two years, and of every such subsequent period, not exceeding ten years, as shall be specified in this behalf in the license, have the option of purchasing such portion of the undertaking as is in the area for which it is constituted, and, if the local authority, with the previous sanction of the Local Government, elects to purchase, the licensee shall sell the undertaking or part thereof to it upon terms and conditions similar to those set forth in section 5, clauses (*b*) and (*d*).

(*2*) In any such case as aforesaid, if a local authority does not elect to purchase, the Local Government shall have the like option upon the like terms and conditions save that where the Local Government purchases the undertaking or any part thereof under such option the license shall, in so far as the Local Government is concerned, cease to have any further operation.

(*3*) Where, in exercise of the option conferred by sub-section (*1*), a local authority has elected to purchase the portion of the undertaking which is within the area for which it is constituted, the Local Government shall have the like option upon the like terms and conditions in respect to any portion of the undertaking which is without such area.

(*4*) Not less than twelve months' notice in writing of any election to purchase under this section shall be served upon the licensee by the local authority or the Local Government, as the case may be.

(*5*) Notwithstanding anything hereinbefore contained, the local authority may, with the previous sanction of the Local Government, waive its option of purchase and enter into an agreement with the licensee for the working by him of the undertaking, or such portion thereof as is in the area for which such authority is constituted, until the expiration of the next subsequent

period referred to in sub-section (*1*), upon such terms and conditions as may be stated in such agreement.

Provisions where no purchase and license revoked with consent of licensee.

8. Where, on the expiration of any of the periods referred to in section 7, sub-section (*1*), neither the local authority nor the Local Government purchases the undertaking or any portion thereof, and the license is, with the consent of the licensee, revoked, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months, the Local Government may proceed to take action as provided in section 5, clause (*f*).

Licensee not to purchase, or associate himself with, other licensed undertakings or transfer his undertaking.

9. (*1*) The licensee shall not, at any time without the previous consent in writing of the Local Government, acquire, by purchase or otherwise, the undertaking of, or associate himself with, any person supplying, or intending to supply, energy under any other license, and, before applying for such consent, the licensee shall give not less than one month's notice of the application to every local authority, both in the licensee's area of supply, and also in the area or district in which such other person supplies, or intends to supply, energy.

(*2*) The licensee shall not at any time transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Local Government.

(*3*) Any agreement relating to any transaction of the nature described in sub-section (*1*) or sub-section (*2*) which may be made without such consent as aforesaid shall be void.

General power for Local Government to vary terms of purchase.

10. Notwithstanding anything in sections 5, 7 and 8, the Local Government, with the previous sanction of the Governor General in Council, may, in any license granted under this Act, vary the terms upon which a licensee shall be bound to sell his undertaking.

Annual accounts of licensee.

11. (*1*) Every licensee shall prepare and render to the Local Government, on or before such date in each year as the Local Government may by rule fix, an annual statement of accounts of his undertaking made up to such date, in such form, and containing such particulars, as may be prescribed by the said rule.

(*2*) The licensee shall keep copies of such annual statement at his office and sell the same to any applicant at a price not exceeding one rupee per copy.

Provisions as to the opening and breaking up of streets, railways and tramways.

12. (*1*) Any licensee may, from time to time but subject always to the terms and conditions of his license,—

(*a*) open and break up the soil and pavement of any street, railway or tramway within the area of supply;

(*b*) open and break up any sewer, drain or tunnel in or under any such street, railway or tramway;

(*c*) lay down and place within the area of supply electric supply-lines and other works;

(*d*) repair, alter or remove the same; and

(*e*) do all other acts necessary for the due supply of energy within the area of supply.

(*2*) Nothing contained in sub-section (*1*) shall be deemed to authorize or empower a licensee, without the consent of the local authority or of the owner and occupier concerned, as the case may be, to lay down or place any electric supply-line or other work in, through or against any building, or on, over or under any land not dedicated to public use, whereon, whereover or whereunder any electric supply-line or work has not already been lawfully laid down or placed by such licensee:

Provided that any stay or strut required for the sole purpose of securing in position any support of an aërial electric supply-line may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of the owner or occupier of such building or land, if the District Magistrate or, in a Presidency-town, the Commissioner of Police, by order in writing, so directs:

Provided also that if at any time the owner or occupier of any building or land on which any such stay or strut has been fixed shows sufficient cause, the District Magistrate or, in a Presidency-town, the Commissioner of Police may, by order in writing, direct any such stay or strut to be removed or altered.

(*3*) Every order made by a District Magistrate or a Commissioner or Police under sub-section (*2*) shall be subject to revision by the Local Government.

(*4*) Nothing contained in sub-section (*1*) shall be deemed to authorize or empower any licensee to open or break up any street not repairable by a local authority, or any railway or tramway, without the consent of the person by whom the same is repairable, unless with the written consent of the Local Government:

Provided that the Local Government shall not give any such consent as aforesaid, until notice has been given, by advertisement or otherwise as the Local Government may direct, to the person by whom the street, railway or tramway concerned is repairable, and until all representations or objections received in accordance with the notice have been considered by the Local Government.

Notice of new works.

13. (*1*) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works in, under, over, along or across any street, part of a street, railway, tramway, canal or waterway, the following provisions shall have effect, namely :—

(*a*) Not less than one month before commencing the execution of the works (not being a house-service or the repair, renewal or amendment of existing works of which the character or position is not to be altered), the licensee shall serve upon the person or authority responsible for the repair of the street or part of a street (hereinafter in this section referred to as "the repairing authority") or upon the person or authority for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this section referred to as "the owner"), as the case may be, a notice in writing describing the proposed works, together with a detailed plan thereof, on a scale which shall not be smaller than eighty-eight feet to the inch, or such other scale as the Local Government may approve, and intimating the manner in which, and time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time give such further information in relation thereto as may be desired.

(*b*) If the repairing authority intimates to the licensee that it disapproves of such works or plan, or approves thereof subject to amendment, the licensee may, within one week of receiving such intimation appeal to the Local Government, whose decision, after considering the reasons given by the repairing authority for its action, shall be final.

(*c*) If the repairing authority fails to give notice in writing of its approval or disapproval to the licensee within one month, it shall be deemed to have approved of the works and plan, and the licensee, after giving not less than forty-eight hours' notice in

traction or to the public for any purpose to be licensed.

and conditions of, a license granted by the Local Government under this Part:

Provided that nothing in this section shall apply to any railway or tramway subject to the provisions of the Indian Railways Act, 1890.[1] IX of 1890.

(*2*) Where any difference or dispute arises as to whether energy is or is not supplied or to be supplied for electric traction or to the public for any purpose within the meaning of sub-section (*1*), the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

Grant and revocation of licenses.

4. (*1*) The Local Government may grant a license to any person to supply energy for any purpose in any specified local area, and also to lay down electric supply-lines for the conveyance and transmission of energy from a generating station situated outside such specified local area to the boundary of such specified local area in any case in which the energy to be supplied is to be generated outside such specified local area; and in respect of every such license and the grant thereof the following provisions shall have effect, namely :—

(*a*) Before granting a license under this Part the Local Government shall consult every local authority concerned, and, where such local authority advances any objection to the grant of a license, the Local Government shall take such objection into consideration and, if in its opinion it is insufficient, shall record in writing and communicate to such local authority its reasons for such opinion.

(*b*) Any person applying for a license under this Part shall publish a notice of his application in such manner and with such particulars as the Governor General in Council may by rule direct, and no such license shall be granted until three months from the date of the first publication of such notice as aforesaid have expired and until all representations or objections received by the Local Government within that period with reference thereto have been considered by it.

(*c*) No application for a license under this Part shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held, after one month's previous notice of the same and of the purpose thereof, has been given in the manner in which notices of meetings of such local authority are usually given.

(*d*) A license under this Part may prescribe such terms as to the limits

[1] *See* now the revised edition as modified up to 1st January, 1903.

within which, and the conditions under which, the supply of energy is to be compulsory or permissive, and as to the limits of price to be charged in respect of the supply of energy, and generally as to such other matters as the Local Government may think fit.

(*e*) The grant of a license under this Part for any purpose shall not in any way hinder or restrict the grant of another license to another person within the same area of supply for a like purpose.

(*f*) The provisions contained in the schedule shall be deemed to be incorporated with, and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to such additions, variations or exceptions (if any) which the Local Government, with the previous sanction of the Governor General in Council, is hereby empowered to make, apply to the undertaking authorized by the license, and shall be binding in like manner and to the same extent as if enacted in this Act.

(*2*) The Local Government may, if in its opinion the public interest so requires, revoke a license, as to the whole or any part of the area of supply, in any of the following cases, namely :—

(*a*) where the licensee, in the opinion of the Local Government, makes wilful and unreasonably prolonged default in doing anything required of him by or under this Act;

(*b*) where the licensee breaks any of the terms or conditions of his license the breach of which is expressly declared by such license to render it liable to revocation;

(*c*) where the licensee, not being a local authority, fails, within a period of six months after the date of his license or such further period as the Local Government may determine and before exercising any of the powers conferred on him thereby in relation to the execution of works, to show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his license, or fails to make the deposit or furnish the security required by his license;

(*d*) where the licensee is, in the opinion of the Local Government, unable by reason of his insolvency, fully and efficiently to discharge the duties and obligations imposed on him by his license;

(*e*) where the licensee, not being a local authority, shows, to the satisfaction of the Local Government, at any time after the commencement

alteration may, upon payment or securing of any compensation accepted or determined by arbitration, be executed in accordance with the notice and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties.

(*e*) The owner may, at any time before the operator is entitled to commence the alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give such security for the repayment of any expenses as may be agreed upon or, in default of agreement, settled by arbitration.

(*f*) Where a statement is served upon the operator under clause (*e*), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notification in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made; and thereupon the owner may proceed to execute the alteration as required by the operator.

(*g*) Where the owner declines to comply, or does not, within the time and in the manner prescribed by a notification served upon him under clause (*f*), comply with the notification, the operator may himself execute the alteration.

(*h*) All expenses properly incurred by the owner in complying with a notification served upon him by the operator under clause (*f*) may be recovered by him from the operator.

(*i*) Where the operator makes default in complying with any of these provisions, he shall make full compensation for any loss of damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Laying of electric supply-lines or other works near sewers, pipes or other electric supply-lines or works.

15. (*1*) Where a licensee requires to dig or sink any trench for laying down any new electric supply-lines (not being service-lines) or other works near to which any sewer, drain, watercourse or work under the control of the Local Government or of any local authority, or any main, pipe, syphon, electric supply-line or other work belonging to any duly authorized person has been lawfully placed, or where any duly authorized person requires to dig or sink any trench for laying down or constructing any new mains or pipes (not being service-pipes) or other works, near to which any electric

supply-lines or works of a licensee have been lawfully placed, the licensee or such duly authorized person, as the case may be (hereinafter in this section referred to as "the operator") shall, unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the Local Government or local authority, or to such duly authorized person or to the licensee, as the case may be (hereinafter in this section referred to as "the owner"), not less than forty-eight hours' notice in writing before commencing to dig or sink the trench, and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(*2*) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall temporarily support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(*3*) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any mains, pipes, lines or service-pipes or lines belonging to any duly authorized person or to any person supplying or using energy under this Act, he shall not, except with the consent of such person and of the Local Government, lay his electric supply-lines so as to come into contact with any such mains, pipes, lines or service-pipes or lines, or, except with the like consent, employ any such mains, pipes, lines or service-pipes or lines as conductors for the purpose of supplying energy.

(*4*) Where the operator makes default in complying with any of the provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(*5*) Where any difference or dispute arises under this section, the matter shall be determined by arbitration.

(*6*) Where the licensee is a local authority, the references in this section to the local authority and to sewers, drains, water-courses or works under its control shall not apply.

Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay.

16. (*1*) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway, or any sewer, drain or tunnel, he shall—

(*a*) immediately cause the part opened or broken up to be fenced and guarded;

(*b*) before sunset cause a light, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up.

(*c*) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such opening or breaking up; and,

(*d*) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel, broken or opened up, keep the same in good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(*2*) Where any person fails to comply with any of the provisions of sub-section (*1*), the person having the control or management of the street, railway, tramway, sewer, drain or tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(*3*) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section (*2*), the matter shall be determined by arbitration.

Aërial lines.

17. Nothing in this Part shall be deemed to authorize or empower a licensee to place any aërial line along or across any street unless and until the Local Government, after consulting the local authority, has communicated to him a general approval in writing of the methods of construction which he proposes to adopt:

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(*2*) Where any aërial line has been placed or maintained by a licensee in breach of the provisions of sub-section (*1*), the Local Government may require the licensee forthwith to remove the same, or may cause the same to be removed and recover from the licensee the expenses incurred in such removal.

(*3*) Where any tree, standing or lying near an aërial line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of energy, a Magistrate of the first class may, on the application of the licensee, cause the tree to be removed or otherwise dealt with as he thinks fit.

(*4*) When disposing of an application under sub-section (*3*), the Magistrate shall, in the case of any tree in existence before the placing of the aërial line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

Compensation for damage.

18. (*1*) A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage caused by him or by any one employed by him.

(*2*) Where any difference or dispute arises as to the amount or the application of such compensation, the matter shall be determined by arbitration.

Power for licensee to enter premises for ascertaining energy consumed, or to remove fittings or other apparatus of licensee.

19. (*1*) A licensee or any person duly authorized by a licensee may at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, for the purpose of—

(*a*) inspecting and testing the electric supply-lines, meters, fittings, works and apparatus for the supply of energy belonging to the licensee;

(*b*) ascertaining the quantity of energy consumed or supplied; or

(*c*) removing where a supply of energy is no longer required, or where the licensee is authorized to take away and cut off such supply, any electric supply-lines, fittings, works or apparatus belonging to the licensee.

(*2*) A licensee or any person authorized as aforesaid may also, in pursuance of a special order in this behalf made by the District Magistrate or, in a Presidency-town, by the Commissioner of Police, and after giving not less than twenty-four hours' notice in writing to the consumer, enter any premises to which energy is or has been supplied, or is to be supplied, by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of energy belonging to the consumer.

Restrictions on licensee's controlling or interfering with use of energy.

20. (*1*) A licensee shall not be entitled to prescribe any special form of appliance for utilizing energy supplied by him, or, save as provided by section 23, sub-section (*2*), or by section 30, sub-section (*6*), in any way to control or interfere with the use of such energy:

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the supply by the licensee of energy to any other person.

(*2*) Where any difference or dispute arises under this section, the matter shall be determined by arbitration.

Obligation on licensee to supply energy.

21. Where energy is supplied by a licensee, every person within the area of supply shall, except in so far as is otherwise provided by the terms and conditions of the license, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply:

Provided that no person having a private generating plant shall be entitled to demand a connection with the mains of the licensee in order to use the energy of the licensee only in the event of accident to the plant of such person.

Maximum electrical power.

22. (*1*) The electrical power at which any consumer shall be entitled to be supplied by a licensee, shall not exceed what is necessary for the maximum consumption of energy on his premises:

Provided that, where a consumer has required a licensee to supply him at a specified maximum power, he shall not be entitled to alter that maximum except after one month's notice in writing to the licensee, and the licensee may recover from the consumer any expenses incurred by him by reason of the alteration in respect of the service-lines by which energy is supplied to the consumer's premises, or of any fittings or apparatus of the licensee upon those premises.

(*2*) Where any difference or dispute arises between a consumer and a licensee as to the power at which energy is to be supplied under sub-section (*1*) or as to the amount of the expenses incurred under the proviso thereto, the matter shall be determined by arbitration.

Charges for energy to be made without undue preference.

23. (*1*) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person, but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license, and may allow rebates thereon according to the quantity supplied, either in relation to the maximum power to which the consumer is entitled under section 22, or to the total quantity, or to the time at which the supply is needed.

(*2*) Notwithstanding anything in sub-section (*1*), the licensee may, with the consent of the Local Government, charge at one rate for the supply of energy for lighting purposes, and at other rates for the supply of energy for purposes other than lighting; and no person shall be entitled to utilize for one purpose energy supplied to him at a lower rate for any other purpose.

(*3*) Where any difference or dispute arises between a consumer and a licensee as to any matter provided for in sub-section (*1*) or sub-section (*2*), the matter shall be determined by arbitration.

Discontinuance of supply to consumer neglecting to pay charge.

24. Where any person neglects to pay any charge for energy or any other sum due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days' notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or

disconnect any electric supply-line or other works through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer:

Provided that the provisions of this section shall not apply in any case in which any difference or dispute of the nature described in section 30, sub-section (*7*), has been referred for determination by an Electric Inspector or other person as therein provided until such Inspector or other person has given his decision.

Exemption of electric supply-lines or other apparatus from attachment in certain cases.

25. Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises, not being in the possession of the licensee, for the purpose of supplying energy, such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

Protection of railways and canals, docks, wharves and piers.

26. No licensee shall, in exercise of any of the powers conferred by or under this Act, in any way injure any railway, tramway or canal or (in cases where the licensee is not a local authority) any dock, wharf or pier vested in or controlled by a local authority or obstruct or interfere with the traffic on any railway, tramway or canal.

Protection of telegraphic, telephonic and electric-signalling lines.

27. (*1*) Nothing in this Act shall be deemed to authorize or empower any licensee to lay down any underground, or place any aërial, electric supply-line or other works, or to make any alterations in any telegraph line, maintained or worked by the Government or by any person licensed under the Indian Telegraph Act, 1885,[1] without the previous sanction of the telegraph-authority, to whom the licensee shall give not less than one month's notice in writing of his intention, specifying the course of the works or alterations proposed, the manner in which the works are to be utilized, the amount and nature of the energy to be transmitted, and the extent to, and manner in, which (if at all) earth returns are to be used; and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph-authority for preventing any telegraph line from being injuriously affected by such works or alterations:

XIII of 1885.

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph-authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be

[1] Printed, General Acts, Vol. V.

required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(*2*) Every licensee shall take all reasonable precautions in constructing, laying down and placing his electric-supply lines and other works and in working his undertaking, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric-signalling communication, or the currents in such wire or line.

(*3*) Where any difference or dispute arises between the licensee and the telegraph-authority or any person licensed under the Indian Telegraph Act, 1885 [1], as to whether the licensee has constructed, laid down or placed his electric supply-lines or other works, or made alterations in a telegraph line, or worked his undertaking, in contravention of sub-section (*1*) or sub-section (*2*), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the Governor General in Council; and the Governor General in Council, unless he is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the licensee after the construction of such lines or works, may direct the licensee to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the licensee shall make such alterations or additions accordingly: XIII of 1885.

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line, so long as the course of the electric supply-line and the amount and nature of the current transmitted thereby are not altered.

(*4*) Where a licensee makes default in complying with the requirement of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

Explanation.—For the purposes of this section, a telegraph-line shall be deemed to be injuriously affected by a work if telegraphic communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by such work or by any use made thereof.

Notice of, and inquiry into, accidents.

28. (*1*) Every licensee shall, within twenty-four hours of the occurrence, send to the Local Government and to the District Magistrate or, in a Presidency-town, to the Commissioner of Police, notice in writing of any

[1] Printed, General Acts, Vol. V.

accident by explosion, fire, electric shock or fall of an aërial line and also of any other accident resulting or likely to have resulted in loss of life or personal injury in any part of the licensee's works or circuits, or in connection with the same, and also notice of any loss of life or personal injury actually occasioned by any such accident.

(*2*) The Local Government may also, if it thinks fit, appoint any Electric Inspector or other competent person to inquire and report as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with a licensee's works, or as to the manner in, and extent to, which the provisions of the license and of this Act, so far as those provisions affect the safety of the public, have been complied with by the licensee.

Power for Local Government to interfere in certain cases of default by licensee.

29. If at any time it is established, to the satisfaction of the Local Government,—

(*a*) that a licensee is supplying energy otherwise than by means of a system which has been approved of by the Local Government or (except in accordance with the provisions of his license) has permitted any part of his circuits to be connected with earth, or

(*b*) that any electric supply-lines or works of a licensee are defective; or

(*c*) that any works of a licensee or his supply of energy are or is attended with danger to the public safety;

the Local Government may, by order in writing, specify the matter complained of and require the licensee to remedy it in such manner as shall be specified in the order, and may also in like manner forbid the use of any electric supply-line or works until the order is complied with or for such time as is specified in the order.

Meters.

30. (*1*) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer of the electrical quantity contained in the supply (such amount or quantity being hereinafter referred to as "the value of the supply") shall be ascertained by means of a duly certified meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof unless the consumer elects to purchase a meter.

(*2*) Where the consumer so enters into an agreement for the hire of a meter, the licensee shall keep the meter in proper order for correctly registering the value of the supply, and, in default of his doing so, the consumer

shall, for so long as the default continues, cease to be liable to pay for the hire of the meter.

(*3*) Where the meter is the property of the consumer, he shall keep the meter in proper order for correctly registering the value of the supply, and, in default of his doing so, the licensee may, for so long as the default continues, cease to supply energy through the meter.

(*4*) The licensee or any person duly authorized by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to and be at liberty to take off, remove, test, inspect and replace any meter whereby the value of the supply is ascertained or to be ascertained; and, except where the meter is so hired as aforesaid, all reasonable expenses of, and incidental to, such taking off, removing, testing, inspecting and replacing, and the procuring the meter to be again duly certified, where that is thereby rendered necessary, shall, if the meter is found to be otherwise than in proper order, be recovered from the consumer; and where any difference or dispute arises as to the amount of such reasonable expenses, the matter shall be determined by arbitration:

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in sub-section (*7*) has arisen until the matter has been determined as therein provided.

(*5*) A consumer shall not connect any meter, whereby the value of the supply is ascertained or to be ascertained, with any electric supply-line through which energy is supplied by a licensee, or disconnect the same from any such electric supply-line, without giving to the licensee not less than forty-eight hours' notice in writing of his intention.

(*6*) In addition to any meter which may be placed upon the premises of a consumer to ascertain the value of the supply, the licensee may place upon such premises such meter or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given, or the maximum power taken by the consumer, or any other quantity or time connected with the supply:

Provided that the meter or apparatus shall be of a construction and pattern approved of by the Local Government, and shall be fixed and connected with the service-lines in a manner so approved, and shall be supplied and maintained entirely at the cost of the licensee, and shall not, in the absence of an agreement to the contrary, be placed otherwise than between the mains of the licensee and the consumer's terminals.

(7) Where any difference or dispute arises as to whether any meter, whereby the value of the supply as to pressure or quantity is ascertained or to be ascertained, is or is not in proper order for correctly registering the value of the supply, or as to whether such value has in any case been correctly registered by the meter, the matter shall be determined, upon the application of either party, by an Electric Inspector or by a competent person specially appointed by the Local Government in this behalf; and, where the meter has, in the opinion of such Inspector or person, ceased to work for a period not exceeding one month, such Inspector or person shall estimate the value of the supply for such period on the basis of the value of the previous supply; and the decision of such Inspector or person shall be final, and the costs of or incidental to such determination shall be recoverable as such Inspector or person may direct: but, save as aforesaid, the register of the meter, whereby the value of the supply is ascertained, shall, in the absence of fraud, be conclusive proof of such value.

Explanation.—A meter shall be deemed to be "duly certified" if it is certified by an Electric Inspector or by a competent person appointed by the Local Government in this behalf to be a correct meter, and to be of a construction and pattern approved by the Local Government, and to have been fixed and connected with the electric supply-lines in a manner so approved:

Provided that, where any alteration is made in a duly certified meter, or where any such meter is unfixed or disconnected from the electric supply-lines, it shall cease to be a duly certified meter unless and until it is again duly certified as aforesaid.

PART III.

Restrictions on Use of Energy not supplied under Part II.

Use of energy not supplied under Part II to be subject to rules.

31. (1) No person shall, for any purpose in any street, or in any place in which one hundred or more persons are likely ordinarily to be assembled or which is a factory within the meaning of the Indian Factories Act,[1] 1881, use energy which is not supplied to him under Part II, without giving not less than seven clear days' notice in writing of his intention to the District Magistrate or, in a Presidency-town, to the Commissioner of Police, and complying with such rules as may be made in this behalf under section 33:

XV of 1881.

[1] Printed, General Acts, Vol. III.

Provided that nothing in this section shall apply to any railway or tramway subject to the provisions of the Indian Railways Act, 1890[1]: IX of 1890.

Provided also that the Local Government may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt any person or class of persons using energy on premises upon or in connection with which it is generated, from the application of this section or of any such rule as aforesaid.

(*2*) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the Local Government, and the decision of the Local Government thereon shall be final.

PART IV.

GENERAL.

Advisory Boards.

32. (*1*) The Governor General in Council may, for the whole or any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may, for the whole or any part of the Province, by notification in the Gazette of India or the local official Gazette, as the case may be, constitute an Advisory Board.

(*2*) Every such Board shall consist of—

(*a*) a Chairman and two other members or, where the Board is to consist of only three members, one other member nominated by the Governor General in Council or the Local Government, as the case may be, and

(*b*) two members or, where the Board is to consist of only three members, one member nominated by such local authorities, Chambers of Commerce or other Associations as the Governor General in Council or the Local Government, as the case may be, may by rule prescribe.

(*3*) The Governor General in Council or the Local Government, as the case may be, may give directions as to the payment of travelling expenses incurred by any member of an Advisory Board in the performance of his duty as such member.

Power for Government to make rules.

33. (*1*) The Governor General in Council may, for the whole[2] or any part of British India, and each Local Government, with the previous sanction of

[1] Printed, General Acts, Vol. V.

[2] For rules made under this section for the whole of British India by the Governor General in Council, *see* Gazette of India, 1903, Pt. I, p. 1103.

the Governor General in Council, may, for the whole or any part of the Province, make rules to regulate the generation, supply and use of energy, and, generally, to carry out the purposes and objects of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) prescribe the form of applications for licenses and the payments to be made in respect thereof;

(*b*) regulate the publication of notices;

(*c*) prescribe the manner in which, and the time within which, representations or objections with reference to any application under Part II are to be made;

(*d*) provide for the preparation and submission of accounts by licensees in a specified form;

(*e*) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply, and for the examination of the records of such tests by consumers;

(*f*) provide for the protection of persons and property from injury by reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, supply or use of energy;

(*g*) for the purposes of any electric tramway, regulate the employment of insulated returns, or of uninsulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on gas or water pipes or other metallic pipes, structures or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply-lines and apparatus of parties other than the owners of the tramway, or with the currents therein, whether the earth is used as a return or not; and for the like purposes apply or adapt any of the provisons of Part II;

(*h*) provide for preventing telegraph lines and magnetic observatories or laboratories from being injuriously affected by any appliance or apparatus used in the generation, supply or use of energy;

(*i*) provide for the appointment of Electric Inspectors by the Local Government, and, with the sanction of the Local Government, by local authorities, and prescribe the qualifications to be required of such Inspectors, and their remuneration and duties;

(*j*) provide for the appointment of members of Advisory Boards and define the duties and regulate the procedure of such Boards;

(*k*) authorize any Electric Inspector or other officer of a specified rank and class to enter, inspect and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, supply or use of energy to be, and to carry out tests therein, and to prescribe the facilities to be given to such Inspectors or officers for the purposes of such examinations and tests; and

(*l*) authorize and regulate the levy of fees for any such testing or inspection and, generally, for the services of Electric Inspectors under this Act.

(*3*) In making any rule under this Act, the Governor General in Council or the Local Government, as the case may be, may direct that every breach thereof shall be punishable with fine which may extend to one hundred rupees and, in the case of a continuing breach, with a further daily fine which may extend to fifty rupees.

Further provisions respecting rules.

34. (*1*) The power to make rules under section 33 shall be subject to the condition of the rules being made after previous publication.

(*2*) The date to be specified in accordance with clause (*3*) of section 23 of the General Clauses Act, 1897,[1] as that after which a draft of rules proposed to be made under this section will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information. X of 1897.

(*3*) Where an Advisory Board has been constituted under section 32 by the Governor General in Council or by the Local Government, any rule to be made under this Act shall, before it is published for criticism under sub-section (*2*), be referred, in the case of a rule to be made by the Governor General in Council, to the Advisory Board constituted by the Governor General in Council, and in the case of a rule to be made by the Local Government, to an Advisory Board constituted by such Government, and the rule shall not be so published until such Board has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

(*4*) All rules made under section 33 shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

Exercise in certain cases of powers

35. Notwithstanding anything in sections 12 to 18, the Governor General in Council may, for the placing of appliances and apparatus for the

[1] Printed, General Acts, Vol. VI.

transmission of energy for any purpose, confer upon any public officer or licensee any of the powers which the telegraph-authority possesses under, and subject to the provisions of, the Indian Telegraph Act, 1885,[1] with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained. of telegraph authority.

XIII of 1885.

36. Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the license of a licensee, be determined by such person or persons as the Governor General in Council or the Local Government may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Indian Arbitration Act, 1899.[2] Arbitration.

IX of 1899.

37. (*1*) Every notice, order or document by or under this Act required or authorized to be addressed to any person may be served, by post or left,— Service of notices, orders or documents.

(*a*) where the Government is the addressee, at the office of the Secretary in the Public Works Department:

(*b*) where a local authority is the addressee, at the office of the local authority:

(*c*) where a company is the addressee, at the registered office of the company:

(*d*) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(*2*) Every notice, order or document by or under this Act required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

38. Every sum declared to be recoverable by section 5, clause (*f*), section 6, section 14, sub-section (*2*), clause (*h*), section 16, sub-section (*2*), section 17, sub-section (*2*) or sub-section (*4*), section 22, sub-section (*1*), or section 30, sub-section (*4*) or sub-section (*7*), and every fee leviable under this Act, may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any moveable property belonging to such person. Recovery of sums recoverable under certain provisions of Act.

39. (*1*) Whoever dishonestly abstracts, consumes or uses any energy Penalties.

[1] Printed, General Acts, Vol. V.
[2] Printed, *supra*, p. 89.

shall be deemed to have committed theft within the meaning of the [1] Indian Penal Code. XLV of 1860.

(2) Whoever maliciously causes energy to be wasted or diverted, or, with intent to cut off the supply of energy, cuts or injures, or attempts to cut or injure, any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

(3) Whoever—

(a) being a licensee, without the previous sanction of the Local Government, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or

(b) fails to prevent any variation of pressure exceeding the limits of variation prescribed by the rules made under this Act; or

(c) makes default in complying with any order issued to him by the Local Government under section 29;

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.

(4) Whoever uses energy in contravention of the provisions of section 31 shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

(5) Whoever—

(a) connects any meter, whereby the value of the supply is ascertained or to be ascertained, with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line, without giving to the licensee forty-eight hours' notice in writing of his intention; or

(b) lays, or causes to be laid, or connects up, any works for the purpose of communicating with any other works belonging to a licensee without such licensee's consent; or

(c) maliciously injures any meter, whereby the value of the supply to a consumer by a licensee is ascertained; or

(d) improperly uses the energy of a licensee;

shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees.

(6) Whoever maliciously extinguishes any electric light supplied for the

[1] *See* now the revised edition of the Act as modified up to 1st April, 1903.

public use, shall be punishable with fine which may extend to two hundred rupees.

(*7*) Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to fifty rupees.

(*8*) Whoever, in any case not already provided for by this section, make default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his license, shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing default, with a daily fine which may extend to twenty rupees:

Provided that, where a person has made default in complying with any of the provisions of sections 13, 14, 15 and 27, as the case may be, he shall not be so punishable if the Court is of opinion that the case was one of emergency and that the offender complied with the said provisions as far as was reasonable in the circumstances.

(*9*) The penalties imposed by this section shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or, in the case of a licensee, the revocation of his license, which the offender may have incurred.

(*10*) The provisions of sub-sections (*1*), (*2*), (*5*), (*6*) and (*7*) shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of energy supplied by or of works belonging to the Government.

Functions of Local Government under Part II in certain places to be performed by Governor General in Council.

40. The powers and duties of the Local Government under Part II shall, when the energy is to be supplied within the limits of any cantonment or of any fortress, arsenal, factory, dockyard or camp or of any building or place in the occupation of Government for naval or military purposes, be exercised and performed by the Governor General in Council.

Protection for acts done in good faith.

41. No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done, or in good[1] faith purporting to be done, under this Act.

Repeals and savings.

XIII of 1887. **42.** (*1*) The Electricity Act, 1887, the Calcutta Electric Lighting Act,

[1] As to definition of good faith, *see* s. 52 of the Indian Penal Code (Act XLV of 1860), as modified up to 1st April, 1903.

1895, and the Howrah Bridge Electric Lighting Act, 1902, are hereby repealed: Ben. Act IX of 1895. Ben. Act I of 1902.

Provided that nothing in the foregoing provisions of this section shall be deemed to affect the terms of any license granted before the commencement of this Act under the Calcutta Electric Lighting Act, 1895, or any provisions of that Act or any rule made thereunder having reference to any such license.

(2) Nothing in this Act shall be deemed to affect the terms of any other license which has been granted or of any agreement which has been made by or with the sanction of the Government for the supply or use of electricity before the commencement of this Act.

THE SCHEDULE.

PROVISIONS TO BE DEEMED TO BE INCORPORATED WITH, AND TO FORM PART OF, EVERY LICENSE GRANTED UNDER PART II.

[*See section 4, sub-section (1), clause (f).*]

Security and accounts.

Security for execution of works of licensee not being local authority.

I. Where the licensee is not a local authority, the following provisions as to giving security shall apply, namely:—

(*a*) The licensee shall, within a period of six months after the commencement of the license and before exercising any of the powers by the license conferred on him in relation to the execution of works, show, to the satisfaction of the Local Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed upon him by the license throughout the area of supply.

(*b*) The licensee shall also, within six months after the commencement of the license or within such extended period as may be approved by the Local Government and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure, to the satisfaction of the Local Government, such sum (if any) as may be fixed by the license or, if not so fixed, by the Local Government.

(*c*) The said sum deposited or secured by the licensee under the provisions of this clause shall be repaid or released to him in equal moieties, when and so soon as it may be certified by an officer

appointed by the Local Government in this behalf that amounts equal to the sums so to be repaid or released have been expended by the licensee upon works executed for the purposes of the undertaking, or that distributing mains have been duly laid down by the licensee in every street or part of a street in which he is required to lay them down within a limited time, or shall be repaid or released at such earlier dates, and by such instalments, as may be approved by the Local Government.

(*d*) Where the area of supply includes two or more local areas for which local authorities are constituted, the Local Government may require the deposit to be made or the security to be given in respect of such local areas severally, and in that case the deposit or security shall be repaid or released separately as to each local area.

Audit of accounts of licensee not being local authority.

II. Where the licensee is not a local authority, the following provisions as to the audit of accounts shall apply, namely :—

(*a*) The annual statement of accounts of the undertaking shall, before being rendered to the Local Government under section 11 of the Indian Electricity Act, 1903, be examined and audited by such person as the Local Government may appoint in this behalf, and the remuneration of the auditor shall be such as the Local Government may direct, and his remuneration and all expenses incurred by him in or about the execution of his duties to such an amount as the Local Government shall approve, shall be paid by the licensee on demand.

(*b*) The licensee shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.

(*c*) The audit shall be made and conducted in such manner as the Local Government may direct.

(*d*) Any report made by the auditor, or such portion thereof as the Local Government may direct, shall be appended to the annual statement of accounts of the licensee, and shall thenceforth form part thereof.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

Separate accounts.

III. The licensee shall, unless the Local Government otherwise directs, at all times keep the accounts of the capital employed for the purposes of the undertaking distinct from the accounts kept by him of any other undertaking or business.

Nature and mode of supply.

Systems of supply.

IV. Energy shall be supplied by the licensee only by means of some system approved in writing by the Local Government and, save as otherwise provided by rules under the Indian Electricity Act, 1903, the licensee shall not permit any part of any circuit to be connected with earth unless the connection is for the time being approved by the Local Government, with the concurrence of the telegraph-authority.

Provisions as to electric tramways.

V. Where and in so far as energy is supplied to a tramway for purposes of electric traction, the following provisions shall apply, namely :—

(*a*) The licensee shall employ either insulated metallic returns, or uninsulated metallic returns of low resistance, save in the case of vehicles in which the motive power is entirely self-contained.

(*b*) The licensee shall take all reasonable precautions in constructing, placing and maintaining his electric supply-lines and circuits, and other works of all descriptions, and also in working his undertaking, so as not injuriously to affect, by fusion or electrolytic action, any gas or water pipes, or other metallic pipes, structures or substances.

Compulsory works.

Power of Local Government to order licensee to lay down distributing mains.

VI. The licensee shall, within a period of two years after the commencement of his license, lay down suitable and sufficient distributing mains for the purposes of general supply throughout such streets or parts of streets as the Local Government may, by order in writing issued within six months of the commencement of the license, direct.

Provisions as to laying electric supply-lines under special agreement.

VII. Every licensee shall, not less than one month before commencing to lay in any street any electric supply-line for the supply of energy to any particular consumer, and not for the purposes of general supply, serve upon the local authority (if any) and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the electric supply-line so to be laid, a notice stating that the licensee intends to lay the electric supply-line, and intimating that, if within the said period any two or more of such owners or occupiers require in accordance with the provisions of the license that a supply shall be given to their

premises, the necessary distributing main will be laid by the licensee at the same time as the electric supply-line intended for the particular consumer.

Provisions as to laying down of further distributing mains.

VIII. (*1*) Where, after the expiration of eighteen months from the commencement of the license, a requisition is made by six or more owners or occupiers of premises in or upon any street or part of a street within the area of supply or by the Local Government or a local authority charged with the public lighting thereof, requiring the licensee to provide and lay down distributing mains for the purposes of general supply throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless,—

(*a*) where it is made by such owners or occupiers as aforesaid, the owners or occupiers making it do not, within fourteen clear days after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract, duly executed and with sufficient security, binding themselves to take, or guaranteeing that there shall be taken, a supply of energy for not less than three years to such amount as will in the aggregate produce annually, at the current rates charged by the licensee, a reasonable return to the licensee; or,

(*b*) where it is made by the Local Government or a local authority, the Local Government or local authority, as the case may be, does not, within the like period, tender a like agreement binding itself to take a supply of energy for not less than three years for the public lighting of such street or part thereof.

(*2*) Where any difference or dispute arises between the licensee and such owners, occupiers or local authority as to the sufficiency of the security offered under this clause, or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Local Government and either decided by it or, if the Local Government so directs, determined by arbitration.

(*3*) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(*4*) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1903; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

Requisition for supply to owners or occupiers in vicinity.

IX. (*1*) Where a requisition is made by the owners or occupiers of any premises situate within one hundred yards from any distributing main in which the licensee is required to maintain a supply of energy for the purposes of general supply, requiring the licensee to supply energy for such premises, the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy in accordance with the requisition, unless the person making it fails, within fourteen days after the service on him by the licensee of a notice in writing in this behalf, to tender to the licensee a written contract, duly executed and with sufficient security, binding himself to take a supply of energy for not less than two years to such amount as will produce, at current rates charged by the licensee, a reasonable return to the licensee:

Provided, first, that the cost of so much of any electric supply-line as may be laid for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any electric supply-line as it may be necessary for the said purposes to lay for a greater distance than one hundred feet from the licensee's distributing main, although not on that property, shall, if the licensee so requires, be paid by the owner or occupier making the requisition:

Provided, secondly, that the licensee may, after he has furnished a supply of energy for any premises, by notice in writing require the owner or occupier, within seven days after the date of the service of the notice, to give him security for the payment of all money which may become due to him in respect of the supply, in case the owner or occupier has not already given that security, or in case any security given has become invalid or is insufficient; and, if the owner or occupier fails to comply with the terms of the notice, the licensee may discontinue to supply energy for such premises so long as such failure continues:

Provided, thirdly, that if the owner or occupier of any such premises as aforesaid adopts any form of lamp or burner, or uses the energy supplied to him by the licensee for any purposes, or deals with it in any manner, so as to interfere unduly or improperly with the efficient supply of energy to any other person by the licensee, or fails to keep his meter in proper order, the licensee may discontinue the supply of energy for such premises so long as such lamp or burner is so adopted, or the energy is so used or dealt with, or the meter is not kept in proper order, as the case may be:

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

Provided, fourthly, that the licensee shall not be bound to furnish a supply of energy to any premises if an Electric Inspector or other competent person appointed by the Local Government is satisfied that the electric line, fittings, works and apparatus therein are not in good order and condition and are likely to affect injuriously the use of energy by the licensee or by other persons:

Provided, fifthly, that in the event of any alterations of, or additions to, any electric wires, fittings, works or apparatus within such premises as aforesaid, all such alterations or additions shall be notified to the licensee by the owner or occupier before being connected to the source of supply, with a view to their being examined and tested: and

Provided, sixthly, that, in the event of any requisition being made for a supply of energy from any distributing main of which the licensee can prove to the satisfaction of an officer appointed by the Local Government in this behalf,—

(*a*) that it is already loaded up to its full-current-carrying capacity, or

(*b*) that, in case of a larger amount of current being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity,

the licensee may refuse to accede to the requisition for such reasonable period, not exceeding six months, as such officer may think sufficient for the purpose of amending the distributing main or laying down a further distributing main.

(*2*) Where any difference or dispute arises as to the sufficiency of the security offered by such owner or occupier, or as to the improper use of energy, or as to any alleged defect in any wires, fittings, works or apparatus, or as to any alleged excess or defect in the pressure or quantity of the energy supplied, the matter shall be referred to the Local Government and either decided by it or, if the Local Government so directs, determined by arbitration.

(*3*) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(*4*) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1903; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

X. (*1*) Where a requisition is made by the Local Government or by a local authority requiring the licensee to supply for a period of not less than

Supply for public lamps.

(*The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.*)

one year energy for any public lamps within the distance of one hundred yards from any distributing main in which the licensee is required to maintain a supply of energy for the purposes of general supply, the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy for such lamps in such quantities as the Local Government or the local authority, as the case may be, may require.

(*2*) The provisions contained in the first, fourth, fifth and sixth proviso to sub-clause (*1*) and in sub-clause (*2*) of clause IX shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this clause as if the Local Government or local authority were an owner or occupier within the meaning of those provisions.

Charges.

Methods of charging.

XI. In the absence of an agreement to the contrary, the licensee may charge for energy supplied by him to any consumer—

(*a*) by the actual amount of energy so supplied; or

(*b*) by the electrical quantity contained in the supply; or

(*c*) by such other method as may be approved by the Local Government:

Provided, first, that, where the licensee charges by any method so approved by the Local Government, any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method:

Provided, secondly, that, before commencing to supply energy through any distributing main for the purposes of general supply, the licensee shall give notice, by public advertisement, of the method by which he proposes to charge for energy so supplied; and, where the licensee has given such notice, he shall not be entitled to change that method of charging without giving not less than one month's notice in writing of such change to the Local Government, to the local authority (if any) concerned, and to every consumer of energy who is supplied by him from such distributing main:

Provided, thirdly, that, if the consumer is provided with a duly certified meter for the purposes of ascertaining the value of the supply and the licensee changes the method of charging for the energy supplied by him from the

distributing main, the licensee shall bear the expense of providing a new duly certified meter if such is necessary for the purpose of ascertaining the value of the supply according to the new method of charging.

Maximum charges.

XII. The price charged by the licensee for energy supplied by him shall not exceed the maximum fixed by his license, or, in the case of a method of charge approved by the Local Government, such maximum as the Local Government shall fix on approving the method:

Provided that, if, at any time after the expiration of seven years from the commencement of the license, the Local Government considers or is satisfied that the maximum so fixed or approved as aforesaid should be altered, it may, after such inquiry (if any) as it thinks fit, make an order accordingly, which shall have effect from such date as may be mentioned therein:

Provided, also, that where an order in pursuance of the foregoing proviso has been made, no further order altering the maximum fixed thereby shall be made until the expiration of another period of seven years.

Charge for supply for public lamps.

XIII. The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and the Local Government or the local authority, as the case may be, and, where any difference or dispute arises, the matter shall be determined by arbitration.

Testing and inspection.

Licensee to establish testing stations and keep instruments for testing.

XIV. The licensee shall, at any place within reasonable distance from any main, establish at his own cost and keep in proper condition such number of testing stations as the Local Government may direct for the purpose of testing the supply of energy in the main, and shall supply and keep in proper condition thereat, and on all premises from which he supplies energy, such instruments for testing as the Local Government may approve, and shall connect all such testing stations, by means of proper and sufficient electric supply-lines, with the distributing mains, and shall supply energy to each testing station for the purpose of testing.

Licensee to give facilities for testing.

XV. The licensee shall afford all facilities for inspection and testing of his generating, converting and testing stations and all other parts of his electric system and for the reading, testing and inspection of instruments.

Representation of licensee at testings.

XVI. The licensee may, on each occasion of the testing of any distributing main or electric supply-line or the testing or inspection of any instruments, be represented by an agent who may be present but shall not interfere with the testing or inspection.

(The Schedule.—Provisions to be deemed to be incorporated with, and to form part of, every license granted under Part II.)

Testing of mains.

XVII. On the occasion of the testing of any main of the licensee by an Electric Inspector, reasonable notice thereof shall be given to the licensee and the testing shall be carried out at such suitable hours as, in the opinion of the Electric Inspector, will least interfere with the supply of energy by the licensee, and in such manner as the Electric Inspector may think fit; but, except under the provisions of an order made in each case in that behalf by the Local Government, the Electric Inspector shall not be entitled to have access to, or interfere with, the mains of the licensee at any points other than those at which the licensee has reserved for himself access to the same:

Provided that the licensee shall not be held responsible for any interruption in the supply of energy which may be occasioned by or required by the Electric Inspector for the purpose of any such testing as aforesaid:

Provided, also, that the testing shall not be made in regard to any particular portion of a main oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the Local Government.

Plans.

Plan of area of supply to be made and kept open for inspection.

XVIII. (*1*) The licensee shall, after commencing to supply energy, forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the line and the height above or the depth below the surface of all his then existing mains, electric supply-lines, street distributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as to show the mains, electric supply-lines, street distributing boxes and other works for the time being in existence. The licensee shall also, if so required by the Local Government, cause to be made sections showing the level of all his existing distributing mains and underground works other than service-lines.

(*2*) Every such plan shall be drawn to a scale which shall not be smaller than eighty-eight feet to the inch or to such other scale as may be approved by the Local Government.

(*3*) Every such section shall be drawn to a horizontal scale which shall not be smaller than eighty-eight feet to the inch and to a vertical scale which shall not be smaller than eleven feet to an inch, or to such other horizontal and vertical scales as may be approved by the Local Government.

(*4*) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected, shall be kept by the licensee at his principal office or place of business within the area of supply, and shall

at all reasonable times be open to the inspection of all applicants, and copies thereof shall be supplied on such terms and conditions as may be prescribed by rules under the Indian Electricity Act, 1903.

(5) The licensee, shall, if required by the Local Government, or, where the licensee is not a local authority, by the local authority (if any) concerned, supply to the Local Government or local authority, as the case may be, a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

Additional notice of certain works.

XIX. On the day next preceding the commencement of any such works as are referred to in section 13 of the Indian Electricity Act, 1903, the licensee shall, in addition to any other notices which he may be required to give, serve upon the Electric Inspector or such officer as the Local Government may appoint in this behalf for the area of supply a notice in writing stating that he is about to commence the works and the nature and position of the same. Notice to Electric Inspector.

ACT No. IV OF 1903.[1]

[*13th March, 1903.*]

An Act further to amend the Provident Funds Act, 1897.

IX of 1897. WHEREAS it is expedient further to amend the Provident Funds Act, 1897[2]; It is hereby enacted as follows:—

1. This Act may be called the Provident Funds (Amendment) Act, 1903. Short title.

IX of 1897. 2. For section 4 of the Provident Funds Act, 1897,[2] the following section shall be substituted, namely:— Substitution of new section for section 4, Act IX, 1897.

"4. (1) Compulsory deposits in any Government or Railway Provident Fund shall not be liable to any attachment under any decree or order of a Court of Justice in respect of any debt or liability incurred by a subscriber to, or depositor in, any such Fund, and neither the Official Assignee nor a Receiver appointed under Chapter XX of the Code of Civil Procedure shall be entitled to, or have any claim on, any such compulsory deposit. Protection to deposits and other sums in certain cases. XIV of 1882.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 75; for Report of the Select Committee, *see ibid*, 1903, p. 99; for Proceedings in Council, *see ibid*, 1902, Pt. VI, p. 175, *ibid*, 1903, Pt. VI, pp. 11 and 21.

[2] Printed, General Acts, Vol. VI.

(*2*) Any sum standing to the credit of any subscriber to, or depositor in, any such Fund at the time of his decease and payable under the rules of the Fund or under this Act to the widow or the children, or partly to the widow and partly to the children, of the subscriber or depositor, or to such person as may be authorized by law to receive payment on her or their behalf, shall vest in the widow or the children, or partly in the widow and partly in the children, as the case may be, free from any debt or other liability incurred by the deceased, or incurred by the widow or by the children, or by any one or more of them, before the death of such subscriber or depositor.

(*3*) Nothing in sub-section (*2*) shall apply in the case of any such subscriber or depositor as aforesaid dying before the thirteenth day of March, 1903."

ACT No. V OF 1903.[1]

[*13th March, 1903.*]

An Act further to amend the Indian Ports Act, 1889.

WHEREAS it is expedient further to amend the Indian Ports Act, 1889 [2]; X of 1889.
It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Ports (Amendment) Act, 1903.

Amendment of section 47, and substitution of new section for section 48, Act X, 1889.

2. In section 47 of the Indian Ports Act, 1889,[2] the proviso shall be omitted; and for section 48 of the said Act the following section shall be substituted, namely:— X of 1889.

Port-dues not to be chargeable in certain cases.

"48. No port-due shall be chargeable in respect of—

(*a*) any pleasure-yacht, or

(*b*) any vessel which, having left any port, is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, or

(*c*) any vessel which, having entered any port within the territories administered by the Governor of Fort Saint George in Council, leaves it within forty-eight hours without discharging or taking in any passengers or cargo."

Substitution of new entry for entry in column 4, Part I, First Schedule Act X, 1889.

3. For the first entry in the fourth column of Part I of the First Schedule to the said Act, the following entry shall be substituted, namely:—

"Whenever the vessel enters the port, except in the case of mail-steamers

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 98; for Report of the Select Committee, *see ibid*, 1903, p. 103; for Proceedings in Council, *see ibid*, 1902, Pt. VI, p. 182; *ibid*, 1903, Pt. VI, pp. 11 and 21.

[2] Printed, General Acts, Vol. V.

and coasting-vessels, which shall not be chargeable more than once in sixty days."

4. To *Explanation* I of Part II of the said Schedule to the said Act, the following proviso shall be added, namely :— Addition of proviso to *Explanation* I, Part II, First Schedule, Act X, 1889.

"Provided that, for the purpose of the levy of port-dues, a vessel shall not be deemed, during one and the same voyage, to be both a coasting-ship or steamer and a foreign ship or steamer, but port-dues shall, in respect of such voyage, be leviable on such vessel either as a coasting or as a foreign ship or steamer, whichever rate is the higher."

ACT No. VI OF 1903.[1]

[*18th March, 1903.*]

An Act further to amend the Indian Paper Currency Act, 1882.

WHEREAS it is expedient further to amend the Indian Paper Currency Act, 1882,[2] in manner hereinafter appearing; It is hereby enacted as follows :—

XX of 1882.

1. This Act may be called the Indian Paper Currency (Amendment) Act, 1903. Short title.

XX of 1882.

2. For sections 16 and 17 of the Indian Paper Currency Act, 1882,[2] the following shall be substituted, namely :— Amendment of Act XX of 1882, section 16 and 17.

"16. A currency note for five rupees, issued from any town not situate in Burma, shall be a legal tender at any place in British India except Burma, Notes where legal tender.

a currency note for five rupees, issued from any town in Burma, shall be a legal tender at any place in Burma, and

a currency note for any amount exceeding five rupees shall be a legal tender at any place within the Circle from which the note was issued,

for the amount expressed in the note, in payment or on account of—

(*a*) any revenue or other claim, to the amount of five rupees and upwards, due to the Government of India, and

(*b*) any sum of five rupees and upwards, due by the Government of India or by any body corporate or person in British India:

Provided that no currency note shall be deemed to be a legal tender by the Government of India at any office of issue.

"17. (*1*) A currency note for five rupees, issued from any town not situate in Burma, shall be payable at any office of issue not situate in Burma. Notes where payable.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 73; for Proceedings in Council, *see ibid*, Pt. VI, pp. 7, 15 and 21.

[2] General Acts, Vol. IV.

(2) A currency note for five rupees, issued from any town in Burma, shall be payable only at an office of issue in such town.

(3) A currency note for any amount exceeding five rupees shall be payable only—

(a) at an office of issue of the town from which it was issued, and

(b) in the case of notes issued from any town not situate in Burma, also at the Presidency-town of the Presidency within which that town is situate."

THE INDIAN WORKS OF DEFENCE ACT, 1903.

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ACT No. VII OF 1903.[1]

[*20th March, 1903.*]

An Act to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition.

WHEREAS it is expedient to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions and for determining the amount of compensation to be made on account of such imposition; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Indian Works of Defence Act, 1903; and

(*2*) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(*a*) the expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

(*b*) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land:

(*c*) the expression "Command" means one of the principal portions into which the Army of India is, for the time being, divided:

(*d*) the expression "General Officer of the Command" means the General Officer Commanding the Forces in a Command:

(*e*) the expression "Commanding Officer" means the officer for the time being in command of a work of defence:

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1902, Pt. V, p. 84; for Report of the Select Committee, *see ibid*, 1903, p. 105; for Proceedings in Council, *see ibid*, 1902, Pt. VI, p. 175; *ibid*, 1903, pp. 14 and 50.

(*f*) the expression "Collector" includes any officer specially appointed by the Local Government to perform the functions of a Collector under this Act;

(*g*) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act:

(*h*) "maintain," with its grammatical variations and cognate expressions, does not, when used in relation to a house or other construction, include the doing of any act necessary for keeping such house or construction, until the making of the award referred to in section 12 or until the exercise, prior to the making of the award, of the powers of demolition conferred, in case of emergency, by section 6, sub-sections (*1*) and (*3*), in the state in which it was at the time of the publication of the notice referred to in section 3, sub-section (*2*):

(*i*) the following persons shall be deemed "entitled to act" as and to the extent hereinafter provided, that is to say,—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age: and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject-matter is shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(*ii*) in every case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or

Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure [1] shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and XIV of 1882.

(*iv*) no person "entitled to act" shall be competent to receive the compensation money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land upon the use and enjoyment of which restrictions are to be imposed and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

Imposition of Restrictions.

Declaration and notice that the restrictions will be imposed.

3. (*1*) Whenever it appears to the Local Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders.

(*2*) The said declaration shall be published in the local official Gazette and shall state the district or other territorial division in which the land is situate and the place where a sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(*3*) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

Power to do preliminary acts after publication of notice under section 3, sub-section (*2*).

4. It shall be lawful for such officer as the Local Government may, by general or special order, authorize in this behalf, and for his servants and workmen, at any time after publication of the notice mentioned in section 3, sub-section (*2*), to enter upon and survey and take levels of any land in such locality, to dig or bore into the sub-soil, to do all other acts necessary to ascertain whether any and, if so, what restrictions should be imposed on the

[1] General Acts, Vol. IV.

use and enjoyment of the land, to set out the boundaries of the land upon the use and enjoyment of which restrictions are to be imposed, or of any part of such land, to mark such levels, boundaries and line by placing marks and cutting trenches, and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final.

Further powers exercisable after publication of notice under section 3, sub-section (2).

6. (*1*) Whenever a declaration has been made and public notice thereof has been given under section 3, it shall, subject to the provisions of sub-sections (*2*) to (*4*), be lawful for such officer as the Local Government may, by general or special order, authorize in this behalf, and for his servants and workmen, to enter and demolish any buildings or other constructions on the surface, to cut down or grub up all or any of the trees, to remove or alter all or any of the banks, fences, hedges and ditches, to make underground and other drains, to fill up all excavations, and demolish all buildings and other constructions below the surface, and generally to level and clear the said land and do all such acts for levelling and clearing the same as he may deem necessary or proper, but in such manner nevertheless that evidence of the boundaries of the lands held by different owners may be preserved.

(*2*) The powers conferred by sub-section (*1*) shall not be exercised,—

(*a*) save as otherwise provided by sub-section (*3*), before the making of the award hereinafter referred to in section 12, nor

(*b*) save as otherwise provided by sub-section (*4*), after the expiration of six months from the making of the said award, or any shorter period on the expiration of which the officer exercising such powers gives notice to the Collector that there will be no further exercise of them.

(*3*) In case of emergency, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare that all or any powers conferred by sub-section (*1*) may be exercised at any time within six months after the publication of the

notice referred to in section 3, sub-section (*2*), and such powers may be exercised accordingly, and the said notification shall be conclusive proof of emergency.

(*4*) Nothing in sub-section (*2*) shall be deemed to preclude any such officer or his servants or workmen from exercising at any time the said powers for the purpose of removing, wholly or in part, any building or other obstruction maintained, created, added to, altered, planted, stacked, stored or otherwise accumulated in contravention of this Act or of any rule or order made thereunder or of any condition prescribed in accordance therewith.

Restrictions.

7. From and after the publication of the notice mentioned in section 3, sub-section (*2*), such of the following restrictions as the Local Government may in its discretion declare therein shall attach with reference to such land, namely:—

(*a*) Within an outer boundary which, except so far as is otherwise provided in section 39, sub-section (*4*), may extend to a distance of two thousand yards from the crest of the outer parapet of the work,—

(*i*) no variation shall be made in the ground-level, and no building, wall, bank or other construction above the ground shall be maintained, erected, added to or altered otherwise than with the written approval of the General Officer of the Command, and on such conditions as he may prescribe;

(*ii*) no wood, earth, stone, brick, gravel, sand or other material shall be stacked, stored or otherwise accumulated:

Provided that, with the written approval of the General Officer Commanding the District and on such conditions as he may prescribe, road-ballast, manure and agricultural produce may be exempted from the prohibition:

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to remove such road-ballast, manure or agricultural produce, without compensation, on the requisition of the Commanding Officer;

(*iii*) no surveying operation shall be conducted otherwise than by or under the personal supervision of a public servant duly authorized in this behalf, in the case of land under the control of military authority, by the Commanding Officer and, in other cases, by the Collector with the concurrence of the Commanding Officer; and

(*iv*) where any building, wall, bank or other construction above the ground has been permitted under clause (*i*) of this sub-section to be maintained, erected, added to or altered, repairs shall not

without the written approval of the General Officer of the Command, be made with materials different in kind from those employed in the original building, wall, bank or other construction.

(*b*) Within a second boundary which may extend to a distance of one thousand yards from the crest of the outer parapet of the work, the restrictions enumerated in clause (*a*) shall apply with the following additional limitations, namely:—

(*i*) no building, wall, bank or other construction of permanent materials above the ground shall be maintained or erected:

Provided that, with the written approval of the General Officer of the Command and on such conditions as he may prescribe, huts, fences and other constructions of wood or other materials, easily destroyed or removed, may be maintained, erected, added to or altered:

Provided, also, that any person having control of the land as owner, lessee or occupier shall be bound forthwith to destroy or remove such huts, fences or other constructions, without compensation, upon an order in writing signed by the General Officer Commanding the District; and

(*ii*) live hedges, rows or clumps of trees or orchards shall not be maintained, planted, added to or altered otherwise than with the written approval of the General Officer of the Command and on such conditions as he may prescribe.

(*c*) Within a third boundary which may extend to a distance of five hundred yards from the crest of the outer parapet of the work, the restrictions enumerated in clauses (*a*) and (*b*) shall apply with the following additional limitation, namely:—

no building or other construction on the surface, and no excavation, building or other construction below the surface, shall be maintained or erected:

Provided that, with the written approval of the Commanding Officer and on such conditions as he may prescribe, open railings and dry brush-wood fences may be exempted from this prohibition.

Land to be marked out, measured, registered and planned.

8. As soon as may be, after the publication of the declaration aforesaid, the Collector shall cause the land to be marked out and measured, and shall also prepare a register and a detailed plan, which shall be on a scale not smaller than six inches to the mile, showing accurately every building, tree and other obstruction.

Notice to persons interested.

9. (*1*) At any time before the expiration of—

(*a*) the period of eighteen months from the publication of the declaration referred to in section 8, or

(*b*) such other period not exceeding three years from the said publication as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, direct in this behalf,

the Collector shall cause public notice to be given at convenient places on or near the land, stating the effect of the said declaration and that claims to compensation for all interests in such land affected by anything done or ordered in pursuance of such declaration may be made to him:

Provided that, where anything has been done in exercise of the powers conferred, in case of emergency, by section 6, sub-section (*3*), the notice prescribed by this section shall be given as soon as may be thereafter.

(*2*) Such notice shall state the particulars of any damage ordered to be done or, in the case referred to in section 6, sub-section (*3*), done in exercise of any of the powers conferred by the said section, and the particulars of any restrictions attaching to the land under section 7, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for damage to such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent.

(*3*) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

(*4*) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business.

Power to require and enforce the making of statements as to names and interests.

10. The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant

or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

XLV of 1860.

Application of certain sections of the Indian Penal Code.

11. Every person required to make or deliver a statement under section 9 or section 10 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.[1]

Inquiry and award by Collector.

12. On the day fixed under section 9 or on any other day to which the inquiry has been adjourned, the Collector shall proceed to inquire into the objections (if any) which any person interested has stated pursuant to a notice given under the said section to the measurements made under section 8, and into the decrease in the value of the land, and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(*a*) the true area of the land and the nature of the obstructions from which the land is to be kept free;

(*b*) the compensation which in his opinion should be allowed for any damage caused or to be caused under section 6 and for any restrictions imposed under section 7; and

(*c*) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom or of whose claims he has information, whether they have respectively appeared before him or not.

Award of Collector when to be final.

13. (*1*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area of the land, the nature of the said obstructions from which the land is to be kept free, the damage caused or to be caused under section 6, the value of the rights restricted under section 7, and the apportionment of the compensation among the persons interested.

(*2*) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment of inquiry.

14. The Collector may, for any cause he thinks fit, from time to time adjourn the inquiry to a day to be fixed by him.

Power to summon and enforce

15. For the purpose of inquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses, including the parties

[1] *See* the revised edition, as modified up to 1st April, 1903.

attendance of witnesses and production of documents.

interested or any of them, and to compel the production of documents, by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.

Matters to be considered and neglected.

16. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24.

Supplementary proceedings.

17. Whenever the officer exercising the powers conferred by section 6 considers it necessary that anything in respect of which any person is or may be entitled to compensation but of which no notice has been given or compensation awarded, under sections 9 and 12, respectively, should be done in pursuance of the said powers, the Collector shall cause supplementary notice to be given, as nearly as may be, in the manner prescribed by section 9 and subject to the limit of time imposed by sub-section (*1*) of that section, and the provisions of sections 10 to 16 shall, so far as they are applicable, be deemed to apply to any further inquiry and award which may be held or made in consequence of such supplementary notice.

PART III.

Reference to Court and Procedure thereon.

Reference to Court.

18. (*1*) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested :

Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(*b*) in other cases, within six weeks of the receipt of the notice from the Collector under section 13, sub-section (*2*), or within six months from the date of the Collector's award, whichever period shall first expire.

(*2*) The application shall state the grounds on which objection to the award is taken.

Collector's statement to the Court.

19. (*1*) In making the reference the Collector shall state for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land with particulars of any damage caused under section 6 or of restrictions imposed under section 7 ;

(*b*) the names of the persons whom he has reason to think interested in such land ;

(*c*) the amount of compensation awarded under section 12 ; and,

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(*2*) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of notice.

20. The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

(*a*) the applicant ;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and,

(*c*) if the objection is in regard to the area of the land, the nature of the obstructions or the amount of the compensation, the Collector.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead and act, as the case may be, in such proceeding.

Matters to be considered in determining compensation.

23. (*1*) In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall take into consideration—

(*a*) the actual decrease in market-value of the land owing to the publication of the declaration relating thereto under section 3 and any damage caused or to be caused under section 6 ;

(*b*) the damage sustained by the person interested, by reason of the removal of any standing crops in the exercise of any power conferred by section 6 ;

(*c*) the damage (if any) sustained by the person interested, by reason of ceasing to be able to use such land conjointly with his other land ;

(*d*) the damage (if any) sustained by the person interested by anything done or ordered under sections 6 and 7 injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings; and,

(*e*) if, in consequence of the imposition of restrictions, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change.

(*2*) In addition to the amount representing the actual decrease in the market-value of the land as above provided, the Court shall in every case award a further sum of fifteen per centum on such amount.

Matters not to be considered in determining compensation.

24. In determining the amount of compensation to be awarded for damage caused, or to be caused, or for restrictions imposed under this Act, the Court shall not take into consideration—

(*a*) the degree of urgency which has led to the damage or the imposition of restrictions;

(*b*) any disinclination of the person interested to submit to damage or restrictions;

(*c*) any damage sustained by him, which, if caused by a private person, would not render such person liable to a suit;

(*d*) any increase to the value of the other land of the person interested accruing or likely to accrue from anything done under this Act; or

(*e*) any outlay or improvements on, or disposal of, the land commenced, made or effected without the sanction of the Collector after the date of the publication of the declaration under section 3.

Rules as to amount of compensation.

25. (*1*) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 12.

(*2*) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Collector.

(*3*) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Collector.

Form of awards.

26. Every award under this Part shall be in writing signed by the Judge and shall specify the amount awarded under section 23, sub-section (*1*), clause

(*a*), and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

27. (*1*) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportion they are to be paid.

(*2*) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector, unless the Court is of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

Collector may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date of his award to the date of payment of such excess into Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 12, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (*1*) On making an award under section 12, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in sub-section (*2*).

(*2*) If they do not consent to receive it, or if there is no person competent to alienate the land, or if there is any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted :

Provided, first, that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided, secondly, that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided, thirdly, that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(*3*) Notwithstanding anything in this section, the Collector may, with the sanction of the Local Government, instead of awarding a money-compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, or by the remission of land-revenue on the same or on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(*4*) Nothing in sub-section (*3*) shall be construed to interfere with or limit the power of the Collector to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to person incompetent to alienate.

32. (*1*) If any money is deposited in Court under section 31, sub-section (*2*), and it appears that the land in respect of which the same was awarded belonged to any person who had no power to alienate the same, the Court shall order the money to be invested—

(*a*) in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money was deposited is held, or,

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as it thinks fit;

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same are applied—

(*i*) in the purchase of such other lands as aforesaid ; or

(*ii*) in payment to any person or persons becoming absolutely entitled thereto.

(*2*) In all cases of moneys deposited to which this section applies, the Court shall order the cost of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the Collector, namely :—

(*a*) the costs of such investments as aforesaid ;

(*b*) the costs of the orders for the payment of the interest or other proceeds of the securities in which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys and the costs of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of money deposited in other cases.

33. If any money is deposited in Court under this Act for any cause other than that mentioned in section 32, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it thinks fit, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as will, in its opinion, give the parties interested therein the same benefit therefrom as they might have had from the land in respect of which such money was deposited or as near thereto as may be.

Payment of interest.

34. When the amount of any compensation awarded under this Act is not paid or deposited within fifteen days of making the award, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the date of the award until it is so paid or deposited.

PART VI.

MISCELLANEOUS.

Service of notices.

35. (*1*) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 3, sub-section (*2*), by the officer therein mentioned, and, in the case of any other notice, by or by order of the Collector or the Judge.

(*2*) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(*3*) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult

male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house and also in some conspicuous part of the land upon which restrictions are to be imposed:

Provided that, if the Collector or Judge so directs, a notice may be sent by post in a letter addressed to the person named therein at his last known residence, address or place of business and service of it may be proved by the production of the addressee's receipt.

Penalties.

36. Whoever wilfully—

(*a*) obstructs any person in doing any of the acts authorized by section 4, section 6 or section 8, or

(*b*) destroys, damages, alters or otherwise interferes with the ground-level or any work done under section 6, or

(*c*) contravenes any of the provisions of section 7 or any condition prescribed thereunder,

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both, and in the case of a continuing offence, with an additional fine which may extend to five rupees for every day after the first in regard to which he is convicted of having persisted in the offence; and any expenses incurred in removing the effects of his offence may be recovered from him in the manner provided by the law for the time being in force for the recovery of fines.

Magistrate to enforce the terms of the Act.

37. If the Collector or officer authorized under section 6 is opposed or impeded in doing anything directed or permitted by this Act, he shall, if a Magistrate, enforce compliance, and, if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras, Bombay and Rangoon) to the Commissioner of Police, and such Magistrate or Commissioner (as the case may be) shall enforce compliance.

Completion of imposition of restrictions not compulsory, but compensation to be awarded when not completed.

38. (*1*) The Local Government shall be at liberty to withdraw from the imposition of any declared restrictions before any of the measures authorized by section 6 have been taken.

(*2*) Whenever the Local Government withdraws the imposition of any declared restrictions, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in

the prosecution of the proceedings under this Act relating to the said restrictions.

(*3*) The provisions of Part III shall apply, so far as may be, to the determination of the compensation payable under this section.

Demolition of part of house or building and imposition of restrictions on part of land.

39. (*1*) The provisions of this Act shall not be put in force for the purpose of demolishing or acquiring the right to demolish a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be demolished or that the right to demolish the whole of it shall be acquired:

Provided that the owner may at any time before the Collector has made his award under section 12, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory or building shall be demolished, or that the right to demolish the whole of it shall be acquired:

Provided, also, that, if any question shall arise as to whether any building or other construction proposed to be demolished under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court, and such building or other construction shall not be demolished until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the building or other construction proposed to be demolished, is reasonably required for the full and unimpaired use of the house, manufactory or building.

(*2*) If, in the case of any claim of the kind referred to in section 23, sub-section (*1*), clause (*c*), by a person interested, on account of ceasing to be able to use the land, upon the use and enjoyment of which restrictions are to be imposed, conjointly with his other land, the Local Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the imposition of restrictions upon the whole of the land of which the land upon the use and enjoyment of which it was first sought to impose restrictions forms a part.

(*3*) In the case provided for by sub-section (*2*) no fresh declaration or other proceeding under sections 3 to 10 shall be necessary; but the Collector shall without delay furnish a copy of the order of the Local Government to the person interested, and shall thereafter proceed to make his award under section 12.

(*4*) Notwithstanding anything contained in section 7, clause (*a*), any land, upon the use and enjoyment of which restrictions are imposed under

this section may be included in the outer boundary, even though its distance from the crest of the outer parapet of the work exceeds two thousand yards.

Exemption from stamp-duty and fees.

40. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

41. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

42. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

Appeals in proceedings before Court.

43. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or from any part of the award of the Court in any proceeding under this Act.

Power to make rules.

44. (*1*) The Governor General in Council, and the Local Government, with the previous sanction of the Governor General in Council, may make rules for the guidance of officers in all matters connected with the enforcement of this Act.

(*2*) The power to make rules under sub-section (*1*) shall be subject to the condition of the rules being made after previous publication.

(*3*) All rules made under sub-section (*1*) shall be published in the local official Gazette, and shall thereupon have effect as if enacted in this Act.

ACT No. VIII OF 1903.[1]

[*20th March, 1903.*]

An Act to extend to all High Courts the power to grant Probates of Wills and Letters of Administration having effect throughout British India, and to confer upon District Judges the power to grant such probates in certain cases.

WHEREAS it is expedient to extend to all High Courts the power to

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 2; for Report of the Select Committee, *see ibid*, p. 119; for Proceedings in Council, *see ibid*, Pt. VI, pp. 2, 14 and 54.

grant probates of wills and letters of administration having effect throughout British India, and to confer upon District Judges the power to grant such probates in certain cases; It is hereby enacted as follows :—

1. This Act may be called the Probate and Administration Act, 1903. Short title.

The Indian Succession Act, 1865.[1]

X of 1865. 2. In the Indian Succession Act, 1865, the following amendments shall be made, namely :— Amendment of sections 187, 242, 242A, 244, 246 and 250, Act X, 1865.

(*1*) In section 187, for the words "within the Province" the words "in British India," and for the words "under the one hundred and eightieth section" the words "with the will, or with a copy of an authenticated copy of the will, annexed," shall respectively be substituted.

(*2*) To section 242 the following proviso shall be added, namely :—

"Provided that probates and letters of administration granted—

(*a*) by a High Court or

(*b*) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property and estate affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(*3*) After the said proviso the following section shall be inserted, namely :—

"242A. (1) Where probate or letters of administration has or have been granted by a High Court or District Judge with the effect referred to in the proviso to section 242, the High Court or District Judge shall send a certificate thereof to the following Courts, namely :— Transmission to High Courts of certificate of grants under proviso to section 242.

(*a*) when the grant has been made by a High Court, to each of the other High Courts,

(*b*) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

(2) Every certificate referred to in sub-section (*1*) shall be to the following effect, namely :—

'I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*]

[1] Printed, General Acts, Vol. I.

hereby certify that, on the day of , the High Court of Judicature at [*or as the case may be*], granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of , deceased, to *E. F.* of and *G. H.* of and that such probate [*or* letters] has [*or* have] effect over all the property of the deceased throughout the whole of British India ;'

and such certificate shall be filed by the High Court receiving the same.

(8) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 244 and 246, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(*4*) To sections 244 and 246, respectively, the following paragraph shall be added, namely :—

"Where the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(*5*) After section 246 the following section shall be inserted, *viz.* :—

Addition to statement in petition, etc., probate or letters of administration in certain cases.

"246A. (1) Every person applying to any of the Courts mentioned in the proviso to section 242 for probate of a will or letters of administration of an estate intended to have effect throughout British India, shall state in his petition, in addition to the matters respectively required by section 244 and section 246 of this Act, that to the best of his belief no application has been made to any other Court for a probate of the same will or for letters of administration of the same estate, intended to have such effect as last aforesaid,

or, where any such application has been made, the Court to which it was made, the person or persons by whom it was made and the proceedings (if any) had thereon.

(2) The Court to which any such application is made under the proviso to section 242, may, if it thinks fit, reject the same."

(*6*) To section 250 the following paragraph shall be added, namely :—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same

manner as if it were a citation issued by himself and shall certify such publication to the District Judge who issued the citation."

(*7*) After section 277 the following section shall be inserted, namely :—

"227A. In all cases where a grant has been made of probate or letters of administration intended to have effect throughout the whole of British India, the executor or administrator shall include in the inventory of the effects of the deceased all his moveable or immoveable property situate in British India,

Inventory to include property in any part of British India in certain cases.

and the value of such property situate in each Province shall be separately stated in such inventory, and the probate or letters of administration shall be chargeable with a fee corresponding to the entire amount or value of the property affected thereby wheresoever situate within British India."

The Probate and Administration Act, 1881.[1]

V of 1881.

3. In the Probate and Administration Act, 1881, the following amendments shall be made, namely :—

Amendment of sections 59, 60, 62, 64 and 69, Act V, 1881.

(*1*) In section 59, for the proviso the following proviso shall be substituted, namely :—

"Provided that probates and letters of administration granted—

(*a*) by a High Court, or

(*b*) by a District Judge, where the deceased at the time of his death had his fixed place of abode situate within the jurisdiction of such Judge, and such Judge certifies that the value of the property affected beyond the limits of the Province does not exceed ten thousand rupees,

shall, unless otherwise directed by the grant, have like effect throughout the whole of British India."

(*2*) For section 60 the following section shall be substituted, namely :—

"60. (1) Where probate or letters of administration has or have been granted by a Court with the effect referred to in the proviso to section 59, the High Court or District Judge shall send a certificate thereof to the following Courts, namely :—

Transmission to High Courts of certificates of grants under proviso to section 59.

(*a*) when the grant has been made by a High Court, to each of the other High Courts,

(*b*) when the grant has been made by a District Judge, to the High Court to which such District Judge is subordinate and to each of the other High Courts.

[1] Printed, General Acts, Vol. III.

(2) Every certificate referred to in sub-section (*1*) shall be to the following effect, namely :—

'I, *A. B.*, Registrar [*or as the case may be*] of the High Court of Judicature at [*or as the case may be*], hereby certify that on the day of the High Court of Judicature at [*or as the case may be*] granted probate of the will [*or* letters of administration of the estate] of *C. D.*, late of , deceased, to *E. F.* of and *G. H.* of , and that such probate [*or* letters] has [*or* have] effect over all the property of the deceased throughout the whole of British India ;'

and such certificate shall be filed by the High Court receiving the same.

(3) Where any portion of the assets has been stated by the petitioner, as hereinafter provided in sections 62 and 64, to be situate within the jurisdiction of a District Judge in another Province, the Court required to send the certificate referred to in sub-section (1) shall send a copy thereof to such District Judge, and such copy shall be filed by the District Judge receiving the same."

(*3*) To sections 62 and 64, respectively, the following paragraph shall be added, namely :—

"When the application is to the District Judge and any portion of the assets likely to come to the petitioner's hands is situate in another Province, the petition shall further state the amount of such assets in each Province and the District Judges within whose jurisdiction such assets are situate."

(*4*) To section 69 the following paragraph shall be added, namely :—

"Where any portion of the assets has been stated by the petitioner to be situate within the jurisdiction of a District Judge in another Province, the District Judge issuing the same shall cause a copy of the citation to be sent to such other District Judge, who shall publish the same in the same manner as if it were a citation issued by himself and shall certify such publication to the District Judge who issued the citation."

Repeals.

Repeals.

4. The Probate and Administration Act, 1875,[1] sections 2, 3, 4 and 5, and the Probate and Administration Act, 1877, are hereby repealed. XIII of 1875. II of 1877.

[1] Printed, General Acts, Vol. II.

ACT No. IX OF 1903.[1]

[*20th March, 1903.*]

An Act to provide for the levy of customs-duty on Indian tea exported from British India, and to amend section 5 of the Indian Tariff Act, 1894.

WHEREAS it is expedient to provide for the creation of a fund to be expended for the promotion of the interests of the tea industry in India by a Committee specially constituted in this behalf;

and whereas for this purpose it is expedient to levy customs-duty on tea produced in India and exported from British India, and to amend section 5 of the Indian Tariff Act, 1894[2]

VIII of 1894.

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Tea Cess Act, 1903; and

(*2*) It extends to the whole of British India except Aden.

Definitions.

2. In this Act,—

(*a*) "Collector" means, in reference to tea exported by sea, a Customs-collector as defined in clause (*c*) of section 3 of the Sea Customs Act, 1878,[3] and, in reference to tea passing out of British India by land, the Collector of the district;

VIII of 1878.

(*b*) "tea cess" means the customs-duty imposed by section 3 of this Act and by section 5 of the Indian Tariff Act, 1894,[2] as amended by this Act; and

VIII of 1894.

(*c*) "Tea Cess Committee" means the Committee constituted under section 4.

Imposition of duty on exports of Indian tea.

3. On and from the first day of April, 1903, a customs-duty shall be levied and collected on all tea produced in India and exported from any customs-port to any port beyond the limits of British India or to Aden at the rate of one-quarter of pie per pound, or at such lower rate as the Governor General in Council may, on the recommendation of the Tea Cess Committee, prescribe by notification in the Gazette of India.

Constitution of Tea Cess Committee.

4. (*1*) The Governor General in Council shall constitute a Committee to receive and expend the proceeds of the tea cess.

(*2*) The Committee shall in the first instance consist of twenty members,

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 6; for Report of the Select Committee, *see ibid*, p. 123; for Proceedings in Council, *see ibid*, Pt VI, pp. 3, 15 and 56.

[2] General Acts, Vol. VI.

[3] General Acts, Vol. III.

who shall be appointed by the Governor General in Council on the recommendation of the following bodies and authorities, namely:—

(*a*) three on the recommendation of the Bengal Chamber of Commerce; and one on the recommendation of the Madras Chamber of Commerce,

(*b*) seven on the recommendation of the Indian Tea Association, Calcutta; and

(*c*) nine on the recommendation of such respective bodies or authorities interested in the production of tea in India, and established in British India, as the Governor General in Council may appoint in this behalf:

Provided that if, within the period prescribed in this behalf by rules made under this Act, any of the said bodies or authorities fails to make any recommendation, or to make the full number of recommendations which it is entitled to make, the Governor General in Council may appoint the required number of members of the Committee of his own motion without such recommendation.

(*3*) Whenever any member appointed either on the recommendation of any body or authority referred to in sub-section (*2*), or in default of such recommendation, dies, resigns, ceases to reside in British India or becomes incapable of acting as a member of the Committee, the Governor General in Council may, in his discretion, on the recommendation of such body or authority, or in default of such recommendation, appoint another person to be a member in his stead.

(*4*) No act done by the Tea Cess Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

Application of proceeds of tea cess.

5. (*1*) At the close of each month, or as soon thereafter as may be convenient the Collector shall pay the proceeds of the tea cess, after deducting the expenses of collection (if any), to the Tea Cess Committee.

(*2*) The said proceeds and any other moneys received by the Committee in this behalf shall be applied by the Committee towards meeting the cost of such measures as the Committee may consider it advisable to take for promoting the sale and increasing the consumption in India and elsewhere of teas produced in India.

Keeping and auditing of accounts.

6. (*1*) The Tea Cess Committee shall keep accounts of all money received and expended under section 5.

(*2*) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Governor General in Council; and such auditors

may disallow any item which has, in their opinion, been expended out of any money so received otherwise than as directed by or under this Act.

(*3*) If any item is disallowed, an appeal shall lie to the Governor General in Council whose decision shall be final.

Power to make rules.

7. (*1*) The Governor General in Council, after consulting the Tea Cess Committee and after previous publication, may make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the nomination and appointment of members of the Committee, and the procedure of the Committee,

(*b*) the levy and payment of the cess, and

(*c*) the form of accounts to be kept and the publication of an abstract of such accounts with the report of the auditors thereon.

(*3*) All such rules shall be published in the Gazette of India.

Amendment of Act VIII of 1894, section 5.

VIII of 1894.

8. In section 5 of the Indian Tariff Act, 1894, for the words "shall be levied at the rates respectively prescribed in the second, third and fourth schedules on goods passing by land out of, and in the fifth schedule on goods passing by land into" the words "at such rates as may be prescribed by or under this Act or by or under any law for the time being in force relating to customs-duties on imports and exports, respectively, into and from ports, shall be levied on goods passing by land out of or into" shall be substituted.

Time during which section 2 to 7 are to remain in force.

9. Sections 2 to 7 shall remain in force only until the thirty-first day of March, 1908:

Provided that the Governor General in Council may, on the recommendation of the Tea Cess Committee, declare, by notification in the Gazette of India, that the said sections shall continue in force for any further period specified in such notification.

Disposal of surplus proceeds of tea cess.

10. If any proceeds of the tea cess or any moneys so received as aforesaid remain unexpended when sections 2 to 7 cease to be in force, they shall vest in His Majesty.

ACT No. X OF 1903.[1]

[*20th March, 1903.*]

An Act to provide for the erection and management of the Victoria Memorial at Calcutta.

WHEREAS it is intended to erect at Calcutta a building as a memorial of the life and reign of Her late Majesty VICTORIA of the United Kingdom of Great Britain and Ireland, Queen, Empress of India, and for this purpose large sums of money have been subscribed by the Princes and People of India;

And whereas at a meeting of subscribers held in Calcutta certain persons were appointed a Provisional Executive Committee to take the custody of the said moneys;

And whereas it is expedient to make provision for the erection, maintenance and management of the memorial and for the appointment of a permanent body of Trustees;

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Victoria Memorial Act, 1903; and

(*2*) It shall come into force at once.

Trustees.

2. (*1*) The Trustees of the Victoria Memorial (hereinafter called the Trustees) shall be the following, namely:—

(*a*) the Governor General of India,

(*b*) the Lieutenant-Governor of Bengal,

(*c*) the Chief Justice of Bengal,

(*d*) two persons of high rank nominated by the Governor General to represent the Chiefs and Nobles of India,

(*e*) the Secretary to the Government of India in the Foreign Department,

(*f*) the President of the Bengal Chamber of Commerce,

(*g*) the Chairman of the Corporation of Calcutta, and

(*h*) such and so many persons as shall from time to time be nominated by the Trustees with the approval of the Governor General to represent the general body of Subscribers.

(*2*) The Trustees shall be a body corporate, with perpetual succession by the name of "The Trustees of the Victoria Memorial" and a common seal, and in that name shall sue and be sued, and shall have power to acquire and hold property, to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act.

[1] For Statement of Objects and Reasons, *see* Gazette of India 1903, Pt. V, p. 164; for Proceedings in Council, *see ibid*, Pt. VI, pp. 22 and 58.

(*3*) All acts done by a majority of those present and voting at a meeting of the Trustees shall be deemed to be acts of the Trustees.

(*4*) No act of the Trustees shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the body of the Trustees.

(*5*) In the case of *ex-officio* Trustees the person for the time being performing the duties of any of the offices mentioned in sub-section (*1*) shall act as a Trustee.

(*6*) The Trustees may appoint a person to act as their Secretary.

(*7*) Orders for the payment of money on behalf of the Trustees shall be deemed to be sufficiently authenticated if signed by two Trustees and counter-signed by the Secretary.

Property vested in Trustees.

3. All sums of money now in the custody of the said Provisional Executive Committee and all other property, whether moveable or immoveable, which have been or may hereafter be given, bequeathed or otherwise transferred for the purposes of the said Memorial or acquired for the said purposes by the Trustees shall vest in the Trustees.

Officers and servants to be public servants.

4. All officers and servants employed by the Trustees shall be deemed to be public servants within the meaning of the Indian Penal Code: XLV of 1860.

Provided that this section shall not apply to persons in the service of any contractor employed by the Trustees.

Rules.

5. (*1*) The Governor General in Council may make rules[1] to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for the manner in which Trustees, other than *ex-officio* Trustees, shall be appointed, and for the periods of time for which such Trustees shall hold office;

(*b*) for the manner in which meetings of the Trustees shall be convened, the quorum necessary for the transaction of business, and the procedure at such meetings;

(*c*) for the appointment of Committees of the Trustees, and the powers of expenditure and control which may be delegated to such Committees;

(*d*) for the erection, maintenance and management of the Memorial, the care and custody of the objects deposited therein, and the conditions under which the public shall have access thereto;

(*e*) for the form of accounts to be kept by the Trustees, and for the audit and publication of such accounts; and

[1] For rules, *see* Gazette of India, 1903, Pt. I, p. 230.

(*f*) for the application to the officers and servants employed by the Trustees of the rules which apply to the civil servants of the Crown, or to any class of such civil servants.

ACT No. XI OF 1903.[1]

[*25th March, 1903.*]

An Act further to amend the Indian Income-tax Act, 1886.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1886[2]; It is hereby enacted as follows:— II of 1886.

Short title and commencement.

1. (*1*) This Act may be called the Indian Income-tax (Amendment) Act, 1903; and

(*2*) It shall come into force on the first day of April, 1903.

Amendments in Act II of 1886.

2. (*1*) In section 5, sub-section (*1*), clause (*i*), of the Indian Income-tax Act, 1886,[2] for the words "five hundred" the words "one thousand" shall be substituted. II of 1886.

(*2*) In section 41 of the said Act, for the words "forty-one rupees ten annas and eight pies" and "five hundred," the words "eighty-three rupees five annas and four pies" and "one thousand," respectively, shall be substituted.

(*3*) In the second column of Part III of the Second Schedule to the said Act, for the figures "500" the figures "1,000" shall be substituted.

(*4*) For sub-head (*a*) in the second column of Part IV of the said Schedule the following sub-heads shall be substituted, namely :—

"(*a*) If the annual income is assessed at—

not less than	Rs.	1,000	but less than	Rs.	1,250	the tax shall be	Rs.	20
"	"	" 1,250	"	"	1,500	"	"	28
"	"	" 1,500	"	"	1,750	"	"	35
"	"	" 1,750	"	"	2,000	"	"	42"

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 453; and for Proceedings in Council, *see ibid*, Pt. VI, pp. 46 and 62.

[2] General Acts, Vol. V.

ACT No. XII OF 1903.[1]

[*28th August, 1903.*]

An Act further to amend the Indian Tariff Act, 1894.

VIII of 1894. WHEREAS it is expedient further to amend the Indian Tariff Act, 1894[2]; It is hereby enacted as follows:—

Short title and duration.

1. (*1*) This Act may be called the Indian Tariff (Amendment) Act, 1903.

[3](2) *Section 3 shall remain in force until the thirty-first day of March, 1904.*

Amendment of section 8A, Act VIII, 1894.

VIII of 1894. XIV of 1899. 2. In section 8A, sub-section (*1*), of the Indian Tariff Act, 1894,[2] as amended by section 2 of the Indian Tariff Amendment Act, 1899,[4] before the words "the exportation therefrom" the words "the production therein or" shall be inserted.

Addition of new section, 8C, to Act VIII, 1894.

VIII of 1894. VIII of 1902. 3.[3] *After section 8B of the Indian Tariff Act, 1894,[2] as amended by section 2 of the Indian Tariff (Amendment) Act, 1902,[5] the following section shall be added, namely:—*

Continuation of duties chargeable under section 8A or 8B on 31st August, 1903.

VIII of 1902. *"8C. Notwithstanding that the condition precedent to the imposition of a duty under section 8A may have ceased to exist, and notwithstanding anything in section 1, sub-section (2), of the Indian Tariff (Amendment) Act, 1902,[5] any duties which may have been imposed and are chargeable under section 8A or section 8B on the thirty-first day of August, 1903, shall continue to be chargeable in accordance with any rules in force on the said date:*

Provided that the Governor General in Council may, by notification in the Gazette of India, reduce the rate at which any such duty is levied, and amend or vary any such rules as aforesaid."

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 461; for Proceedings in Council, *see ibid*, Pt. VI, pp. 153 and 156.

[2] General Acts, Ed. 1898, Vol. VI.

[3] This sub-section and section 3 are printed in italics, as they only remain in force up to 31st March, 1904.

[4] Printed *supra*, p. 108.

[5] Printed *supra*, p. 201.

ACT No. XIII OF 1903.[1]

[*18th September, 1903.*]

An Act further to amend the Lepers Act, 1898.

WHEREAS it is expedient further to amend the Lepers Act, 1898, by providing for the segregation and medical treatment in British India of lepers belonging to Native States; It is hereby enacted as follows:— III of 1898.

Short title.

1. This Act may be called the Lepers (Amendment) Act, 1903.

Addition of new section after section 18, Act III, 1898. Lepers from Native States.

2. After section 18 of the Lepers Act, 1898, the following section shall be added, namely: III of 1898.

"19. The Governor General in Council may, by notification in the Gazette of India, direct that any leper or class of lepers, with respect to whom an order for segregation and medical treatment has been made by a Magistrate having jurisdiction within the territories of any Native Prince or State in India, may be sent to any leper-asylum specified in such order; and thereupon the provisions of this Act and of any rules made thereunder shall, with such modifications not affecting the substance as may be reasonable and necessary to adapt them to the subject-matter, apply to any leper sent to a leper-asylum in persuance of such notification as though he had been sent by the order of a Magistrate having jurisdiction under this Act."

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 467 for Proceedings in Council, *see ibid*, Pt. VI, pp. 158 and 163.

ACT No. XIV OF 1903.[1]

[*23rd October, 1903.*]

An Act to give effect to the Foreign Marriages Order in Council, 1903.

WHEREAS it is expedient to give effect to the Foreign Marriages Order in Council, 1903; It is hereby enacted as follows :—

Short title, extent and application.

1. (*1*) This Act may be called the Indian Foreign Marriage Act, 1903.

(*2*) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas, the Shan States and the Pargana of Spiti; and

(*3*) It applies also to all British subjects and to all servants of the King, whether British subjects or not, in the territories of any Native Prince or State in India.

Notice of marriage intended to be solemnized under 55 & 56 Vict., c. 23.

55 & 56 Vict., c. 23.

2. (*1*) Notice in writing of a marriage which it is intended to solemnize under the Foreign Marriage Act, 1892,[2] may be given by one of the parties intending such marriage, to—

XV of 1872.

(*a*) a Marriage Registrar appointed under the Indian Christian Marriage Act, 1872,[3] where either of such parties is a person professing the Christian religion;

(*b*) a District Magistrate, Chief Presidency Magistrate or Political Agent where neither of such parties is a person professing the Christian religion:

Provided that the party giving such notice as aforesaid shall have had his usual place of abode for not less than three consecutive weeks immediately preceding the giving of notice within the local limits of the area for which the Marriage Registrar, Magistrate or Political Agent to whom the notice is given, is appointed.

(*2*) Every notice given under this section shall state—

(*a*) the name, surname, age and profession or condition of each of the parties intending marriage;

(*b*) the residence of each of them;

(*c*) the time during which each of them has dwelt there; and

(*d*) the place in which the intended marriage is to be solemnized;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1903, Pt. V, p. 466; for Proceedings in Council, *see ibid.*, Pt. VI, pp. 157 and 165.

[2] Printed Vol. II of the Collection of Statutes relating to India, p. 914.

[3] General Acts, Vol. II.

and it shall contain a declaration by the party giving the notice to the effect that he believes that there is no impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage.

(*3*) A copy of every notice given under this section shall be published by being affixed in some conspicuous place in the office of the officer to whom the notice is given.

(*4*) On the expiration of four clear days after such notice as aforesaid has been published in the manner prescribed by sub-section (*3*), the officer to whom the notice is given, unless he is aware of any impediment of kindred or affinity or other lawful hindrance to the solemnization of the said intended marriage shall, on payment of such fee (if any) as the Governor General in Council may fix in this behalf, furnish the party by whom the notice was given, with a certificate, under his hand and seal, to the effect that the notice has been so given and published.

THE INDIAN EXTRADITION ACT, 1903 (XV OF 1903).

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THE SECOND SCHEDULE.—ENACTMENTS REPEALED.

ACT No. XV OF 1903.[1]

[*4th November, 1903.*]

An Act to consolidate and amend the law relating to the Extradition and Rendition of Criminals.

WHEREAS it is expedient to provide for the more convenient administration in British India of the Extradition Acts, 1870 and 1873, and of the Fugitive Offenders Act, 1881; 33 & 34 Vict. c. 52; 36 & 37 Vict., c. 60; 44 & 45 Vict., c. 69.

and whereas it is also expedient to amend the law relating to the extradition of criminals in cases to which the Extradition Acts, 1870 and 1873, do not apply;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. (*1*) This Act may be called the Indian Extradition Act, 1903.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1901, Pt. V, p. 24; for Report of Select Committee, *see ibid*, 1903, Pt. V, p. 469; for Proceedings in Council, *see ibid*, Pt. VI, pp. 151, 163 and 177.

(*2*) It extends to the whole of British India (including British Baluchistan, the Santhal Parganas and the Pargana of Spiti); and extent and commencement.

(*3*) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, may direct.[1]

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "European British subject" means a European British subject as defined by the Code of Criminal Procedure for the time being in force:

(*b*) "extradition offence" means any such offence as is described in the first schedule:

(*c*) "Foreign State" means a State to which, for the time being, the Extradition Acts, 1870[2] and 1873,[2] apply: 33 & 34 Vict., c. 52; 36 & 37 Vict., c. 60.

(*d*) "High Court" means the High Court as defined by the Code of Criminal Procedure for the time being in force:

(*e*) "offence" includes any act wheresoever committed which would, if committed in British India, constitute an offence: and

(*f*) "rules" include prescribed forms.

CHAPTER II.

Surrender of Fugitive Criminals in case of Foreign States.

3. (*1*) Where a requisition is made to the Government of India or to any Local Government by the Government of any Foreign State for the surrender of a fugitive criminal of that State, who is in, or who is suspected of being in British India, the Government of India or the Local Government, as the case may be, may, if it thinks fit, issue an order to any Magistrate who would have had jurisdiction to inquire into the crime if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case. Requisition for surrender.

(*2*) The Magistrate so directed shall issue a summons or warrant for the arrest of the fugitive criminal according as the case appears to be one in which a summons or warrant would ordinarily issue. Summons or warrant for arrest.

(*3*) When such criminal appears or is brought before the Magistrate, the Magistrate shall inquire into the case in the same manner and have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by the Court of Session or High Court, and shall take such evidence as may be produced in support of the requisition and on Inquiry by Magistrate.

[1] Up to date of passing this volume to Press, no notification had issued bringing this Act into force.

[2] Printed Vols. I and II respectively of the Collection of Statutes relating to India.

behalf of the fugitive criminal, including any evidence to show that the crime of which such criminal is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

Committal.

(*4*) If the Magistrate is of opinion that a *primâ facie* case is made out in support of the requisition, he may commit the fugitive criminal to prison to await the orders of the Government of India or the Local Government, as the case may be.

Bail.

(*5*) If the Magistrate is of opinion that a *primâ facie* case is not made out in support of the requisition, or if the case is one which is bailable under the provisions of the Code of Criminal Procedure for the time being in force, the Magistrate may release the fugitive criminal on bail.

Magistrate's report.

(*6*) The Magistrate shall report the result of his inquiry to the Government of India, or the Local Government, as the case may be, and shall forward, together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Government.

Reference to High Court if Government thinks necessary.

(*7*) If the Government of India or the Local Government, as the case may be, is of opinion that such report or written statement raises an important question of law, it may make an order referring such question of law to such High Court as may be named in the order, and the fugitive criminal shall not be surrendered until such question has been decided.

Warrant for surrender.

(*8*) If, upon receipt of such report and statement or upon the decision of any such question, the Government of India or the Local Government, as the case may be, is of opinion that the fugitive criminal ought to be surrendered, it may issue a warrant for the custody and removal of such criminal and for his delivery at a place and to a person to be named in the warrant.

Lawfulness of custody and re-taking under warrant for surrender.

(*9*) It shall be lawful for any person to whom a warrant is directed in pursuance of sub-section (*8*), to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Discharge of fugitive criminals committed to prison after two months.

(*10*) If such a warrant as is prescribed by sub-section (*8*) is not issued and executed in the case of any fugitive criminal, who has been committed to prison under sub-section (*4*), within two months after such committal, the High Court may, upon application made to it on behalf of such fugitive criminal and upon proof that reasonable notice of the intention to make such

application has been given to the Government of India or the Local Government, as the case may be, order such criminal to be discharged, unless sufficient cause is shown to the contrary.

Power to Magistrate to issue warrant of arrest in certain cases.

4. (*1*) Where it appears to any Magistrate of the first class, or any Magistrate specially empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is a fugitive criminal of a Foreign State, he may, if he thinks fit, issue a warrant for the arrest of such person, on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the crime of which he is accused or has been convicted had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(*2*) The Magistrate shall forthwith report the issue of a warrant under this section to the Local Government.

Person arrested not to be detained unless order received.

(*3*) A person arrested on a warrant issued under this section shall not be detained more than two months unless within that period the Magistrate receives an order made with reference to such person under section 3, sub-section (*1*).

Bail.

(*4*) In the case of a person arrested or detained under this section the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the crime of which he is accused or has been convicted.

Power of Government to refuse to issue order under section 3 when crime of political character.

5. (*1*) If the Government of India or any Local Government is of opinion that the crime of which any fugitive criminal of a Foreign State is accused or alleged to have been convicted is of a political character, it may, if it think fit, refuse to issue any order under section 3, sub-section (*1*).

Power of Government to discharge any person in custody at any time

(*2*) The Government of India or the Local Government may also at any time stay any proceedings taken under this Chapter and direct any warrant issued under this Chapter to be cancelled and the person for whose arrest such warrant has been issued to be discharged.

References to "Police Magistrate" and "Secretary of State" in section 3 of Extradition Act, 1870.

6. The expressions "the Police Magistrate" and "the Secretary of State" in section 3 of the Extradition Act, 1870,[1] shall be read as referring respectively to the Magistrate directed to inquire into a case under section 3 of this Act, and to the Government of India or the Local Government, as the case may be.

33 & 34 Vict., c. 52.

[1] Printed, Vol. I of the Collection of Statutes relating to India, p. 458.

CHAPTER III.

SURRENDER OF FUGITIVE CRIMINALS IN CASE OF STATES OTHER THAN FOREIGN STATES.

Issue of warrant by Political Agents in certain cases.

7. (*1*) Where an extradition offence has been committed or is supposed to have been committed by a person, not being a European British subject, in the territories of any State not being a Foreign State, and such person escapes into or is in British India and the Political Agent in or for such State issues a warrant, addressed to the District Magistrate of any district in which such person is believed to be, for his arrest and delivery at a place and to a person or authority indicated in the warrant, such Magistrate shall act in pursuance of such warrant and may give directions accordingly.

Execution of such warrant.

(*2*) A warrant issued as mentioned in sub-section (*1*) shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants, and the accused person, when arrested, shall, unless released in accordance with the provisions of this Act, be forwarded to the place and delivered to the person or authority indicated in the warrant.

Proclamation and attachment in case of persons absconding.

(*3*) The provisions of the Code of Criminal Procedure for the time being in force in relation to proclamation and attachment in the case of persons absconding shall, with any necessary modifications, apply where any warrant has been received by a District Magistrate under this section as if the warrant had been issued by himself.

Release on giving security.

8. (*1*) Where a Political Agent has directed by endorsement on any such warrant that the person for whose arrest it is issued may be released on executing a bond with sufficient sureties for his attendance before a person or authority indicated in this behalf in the warrant at a specified time and place, the Magistrate to whom the warrant is addressed shall on such security being given release such person from custody.

Magistrate to retain bond.

(*2*) Where security is taken under this section, the Magistrate shall certify the fact to the Political Agent who issued the warrant, and shall retain the bond.

Re-arrest in case of default.

(*3*) If the person bound by any such bond does not appear at the time and place specified, the Magistrate may, on being satisfied as to his default, issue a warrant directing that he be re-arrested and handed over to any person authorized by the Political Agent to take him into custody.

Deposit in lieu of bond, and forfeiture of bonds.

(*4*) In the case of any bond executed under this section, the Magistrate may exercise the powers conferred by the Code of Criminal Procedure for the time being in force in relation to taking a deposit in lieu of the execution of

a bond and with respect to the forfeiture of bonds and the discharge of sureties.

Requisitions by States not being Foreign States.

9. Where a requisition is made to the Government of India or to any Local Government by or on behalf of any State not being a Foreign State, for the surrender of any person accused of having committed an offence in the territories of such State, such requisition shall (except in so far as relates to the taking of evidence to show that the offence is of a political character or is not an extradition crime) be dealt with in accordance with the procedure prescribed by section 3 for requisitions made by the Government of any Foreign State as if it were a requisition made by any such Government under that section:

Provided that, if there is a Political Agent in or for any such State, the requisition shall be made through such Political Agent.

Power to Magistrates to issue warrants of arrest in certain cases.

10. (*1*) If it appears to any Magistrate of the first class or any Magistrate empowered by the Local Government in this behalf that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in any State not being a Foreign State and that such person may lawfully be surrendered to such State, or that a warrant may be issued for his arrest under section 7, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

Issue of warrant to be reported forthwith.

(*2*) The Magistrate shall forthwith report the issue of a warrant under this section, if the offence appears or is alleged to have been committed in the territories of a State for which there is a Political Agent, to such Political Agent and in other cases to the Local Government.

Limit of time of detention of person arrested.

(*3*) A person arrested on a warrant issued under this section shall not, without the special sanction of the Local Government, be detained more than two months, unless within such period the Magistrate receives an order made with reference to such person in accordance with the procedure prescribed by section 9, or a warrant for the arrest of such person under section 7.

Bail.

(*4*) In the case of a person arrested or detained under this section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in British India the offence with which he is charged.

Surrender of person accused of, or undergoing sentence

11. (*1*) A person accused of an offence committed in British India, not being the offence for which his surrender is asked, or undergoing sentence under any conviction in British India, shall not be surrendered in compliance

for, offence in British India.

with a warrant issued by a Political Agent under section 7 or a requisition made by or on behalf of any State not being a Foreign State under section 9, except on the condition that such person be re-surrendered to the Government of India or the Local Government, as the case may be, on the termination of his trial for the offence for which his surrender has been asked:

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

Suspension of sentence on surrender.

(*2*) On the surrender of a person undergoing sentence under a conviction in British India, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which was unexpired at the time of his surrender.

Application of Chapter to convicted persons.

12. The provisions of this Chapter with reference to accused persons shall, with any necessary modifications, apply to the case of a person who, having been convicted of an offence in the territories of any State not being a Foreign State, has escaped into or is in British India before his sentence has expired.

Abetment and attempt.

13. Every person who is accused or convicted of abetting or attempting to commit any offence shall be deemed, for the purposes of this Chapter, to be accused or convicted of having committed such offence, and shall be liable to be arrested and surrendered accordingly.

Lawfulness of custody and re-taking under warrant issued under Chapter.

14. It shall be lawful for any person to whom a warrant is directed in pursuance of the provisions of this Chapter, to receive, hold in custody and convey the person mentioned in the warrant, to the place named in the warrant, and, if such person escapes out of any custody to which he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of British India may be re-taken upon an escape.

Power of Government to stay proceedings and discharge persons in custody.

15. The Government of India or the Local Government may, by order, stay any proceedings taken under this Chapter, and may direct any warrant issued under this Chapter to be cancelled, and the person for whose arrest such warrant has been issued to be discharged.

Application of Chapter to offences committed before its commencement.

16. The provisions of this Chapter shall apply to an offence or to an extradition offence, as the case may be, committed before the passing of this Act, and to an offence in respect of which a Court of British India has concurrent jurisdiction.

Receipt in evidence of exhibits, depositions and other documents.

17. (*1*) In any proceedings under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof, and official certificates of facts and judicial documents stating facts, may, if duly authenticated, be received as evidence.

(Chapter III.—Surrender of Fugitive Criminals in case of States other than Foreign States. Sec. 18. Chapter IV.—Rendition of Fugitive Offenders in His Majesty's Dominions. Sec. 19.)

(2) Warrants, depositions or statements on oath which purport to have been issued, received or taken by any Court of Justice outside British India, or copies thereof, and certificates of, or judicial documents stating the fact of, conviction before any such Court, shall be deemed duly authenticated,— **Authentication of the same.**

(a) if the warrant purports to be signed by a Judge, Magistrate or officer of the State where the same was issued or acting in or for such State:

(b) if the depositions or statements or copies thereof purport to be certified, under the hand of a Judge, Magistrate or officer of the State where the same were taken, or acting in or for such State, to be the original depositions or statements or to be true copies thereof, as the case may require:

(c) if the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a Judge, Magistrate or officer of the State where the conviction took place or acting in or for such State:

(d) if the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State where the same were respectively issued, taken or given.

(3) For the purposes of this section, "warrant" includes any judicial document authorizing the arrest of any person accused or convicted of an offence. **Definition of "warrant".**

18. Nothing in this Chapter shall derogate from the provisions of any treaty for the extradition of offenders, and the procedure provided by any such treaty shall be followed in any case to which it applies, and the provisions of this Act shall be modified accordingly. **Chapter not to derogate from treaties.**

CHAPTER IV.

Rendition of Fugitive Offenders in His Majesty's Dominions.

19. For the purpose of applying and carrying into effect in British India the provisions of the Fugitive Offenders Act, 1881,[1] the following provisions are hereby made:— **Application of Fugitive Offenders Act, 1881.**

44 & 45 Vict., c. 69.

(a) the powers conferred on "Governors" of British possessions may be exercised by any Local Government:

[1] Printed, Vol. II of the Collection of Statutes relating to India, p. 734.

(*b*) the powers conferred on a "Superior Court" may be exercised by any Judge of a High Court:

(*c*) the powers conferred on a "Magistrate" may be exercised by any Magistrate of the first class or by any Magistrate empowered by the Local Government in that behalf: and

(*d*) the offences committed in British India to which the Act applies, are piracy, treason and any offence punishable under the Indian Penal [1] Code with rigorous imprisonment for a term of twelve months or more or with any greater punishment. XLV of 1860.

CHAPTER V.

Offences committed at Sea.

Requisition for surrender in case of offence committed at sea.

20. Where the Government of any State outside India makes a requisition for the surrender of a person accused of an offence committed on board any vessel on the high seas which comes into any port of British India, the Local Government and any Magistrate having jurisdiction in such port and authorized by the Local Government in this behalf may exercise the powers conferred by this Act.

CHAPTER VI.

Execution of Commissions issued by Criminal Courts outside British India.

Execution of commissions issued by Criminal Courts outside British India.

21. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in any country or place outside British India in like manner as it may be obtained in any civil matter under the provisions of the Code of Civil Procedure for the time being in force with respect to commissions, and the provisions of that Code relating thereto shall be construed as if the term "suit" included a criminal proceeding:

Provided that this section shall not apply when the evidence is required for a Court or tribunal in any State outside India other than a British Court and the offence is of a political character.

[1] *See* now the revised edition of the Code as modified up to 1st April, 1903.

CHAPTER VII.

SUPPLEMENTAL.

22. (*1*) The Governor General in Council may make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the removal of prisoners accused or in custody under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them;

(*b*) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies;

(*c*) the pursuit and arrest in British India, by officers of the Government or other persons authorized in this behalf, of persons accused of offences committed elsewhere; and

(*d*) the procedure and practice to be observed in extradition proceedings.

(*3*) Rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted by this Act.

V of 1898. **23.** Notwithstanding anything in the Code of Criminal Procedure, 1898,[1] any person arrested without an order from a Magistrate and without a warrant, in pursuance of the provisions of section 54, clause *seventhly*, of the said Code, may, under the orders of a Magistrate within the local limits of whose jurisdiction such arrest was made, be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under section 10. Detention of persons arrested under section 54, clause *seventhly*, Act V, 1898.

24. The Acts mentioned in the second schedule are repealed to the extent specified in the fourth column thereof. Repeals.

THE FIRST SCHEDULE.

EXTRADITION OFFENCES.

[*See section 2, clause* (*b*), *and Chapter III* (*Surrender of Fugitive Criminals in case of States other than Foreign States*).]

[The sections referred to are the sections of the Indian Penal Code.]

Frauds upon creditors (section 206).

Resistance to arrest (section 224).

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[1] *See* now the revised edition of the Code as modified up to 1st April, 1903.

Offences relating to coin and stamps (sections 230 to 263A).
Culpable homicide (sections 299 to 304).
Attempt to murder (section 307).
Thagi (sections 310, 311).
Causing miscarriage, and abandonment of child (sections 312 to 317).
Causing hurt (sections 323 to 333).
Wrongful confinement (sections 347, 348).
Kidnapping and slavery (sections 360 to 373).
Rape and unnatural offences (sections 375 to 377).
Theft, extortion, robbery, etc., (sections 378 to 414).
Cheating (sections 415 to 420).
Fraudulent deeds, etc. (sections 421 to 424).
Mischief (sections 425 to 440).
Lurking house-trespass (sections 443, 446).
Forgery, using forged documents, etc. (sections 463 to 477A).
Desertion from any body of Imperial Service Troops.
Piracy by law of nations.
Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
Assault on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.
Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.
Any offence against any section of the Indian Penal Code or against any other law which may, from time to time, be specified by the Governor General in Council by notification in the Gazette of India either generally for all States or specially for any one or more States.

THE SECOND SCHEDULE.

ENACTMENTS REPEALED.

(*See section 24.*)

Year.	No.	Short title.	Extent of repeal.
1879	XXI	The Foreign Jurisdiction and Extradition Act, 1879.	So much as is unrepealed.
1895	IX	The Extradition (India) Act, 1895	The whole Act.
1896	V	The Foreign Jurisdiction and Extradition Act (1879) Amendment Act, 1896.	The whole Act.

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